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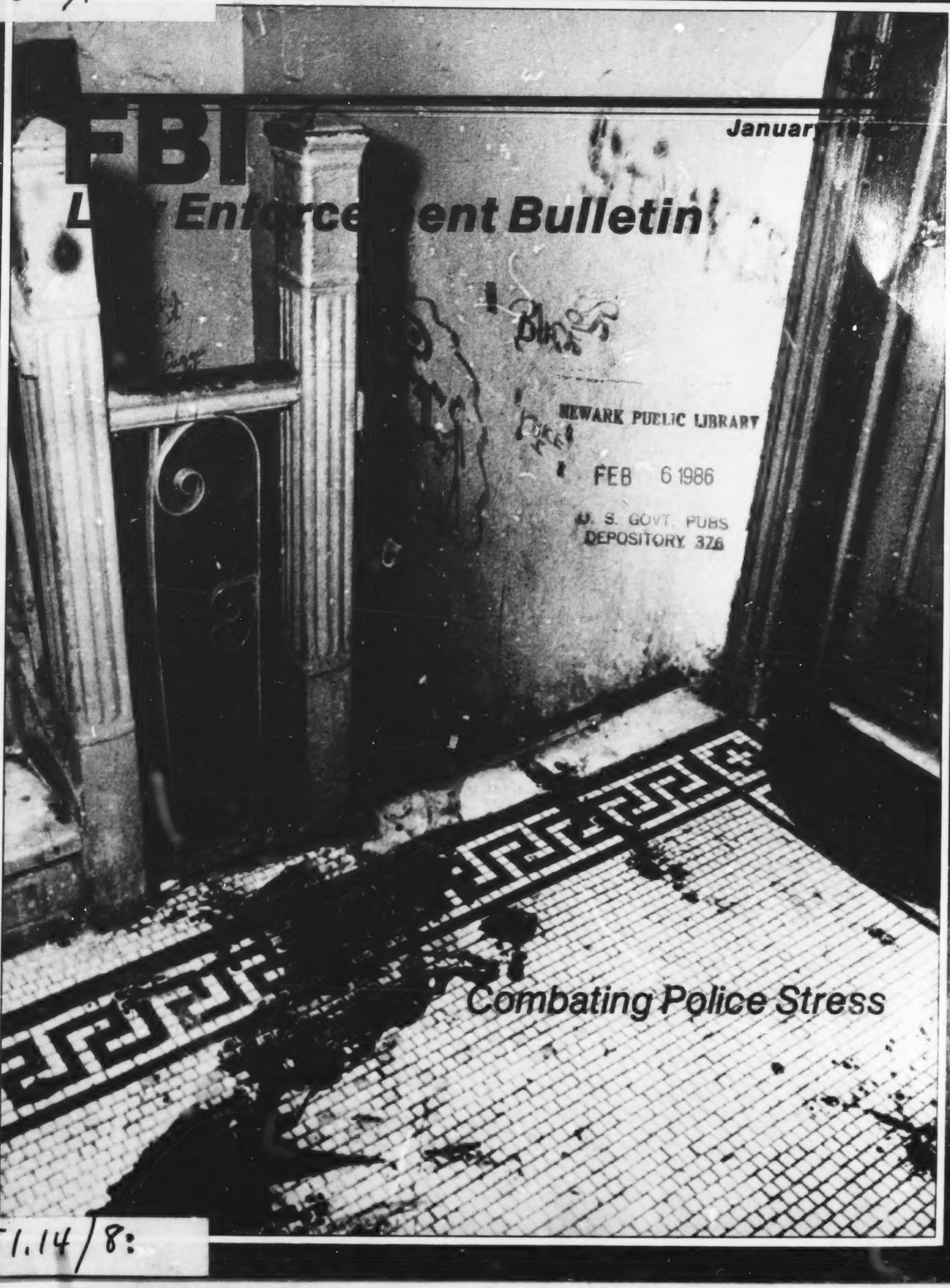

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Combating Police Stress

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Police stress is a serious occupational malady which, if left unchecked, can be devastating to the officer and the department. See article p. 1.

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Law Enforcement Bulletin

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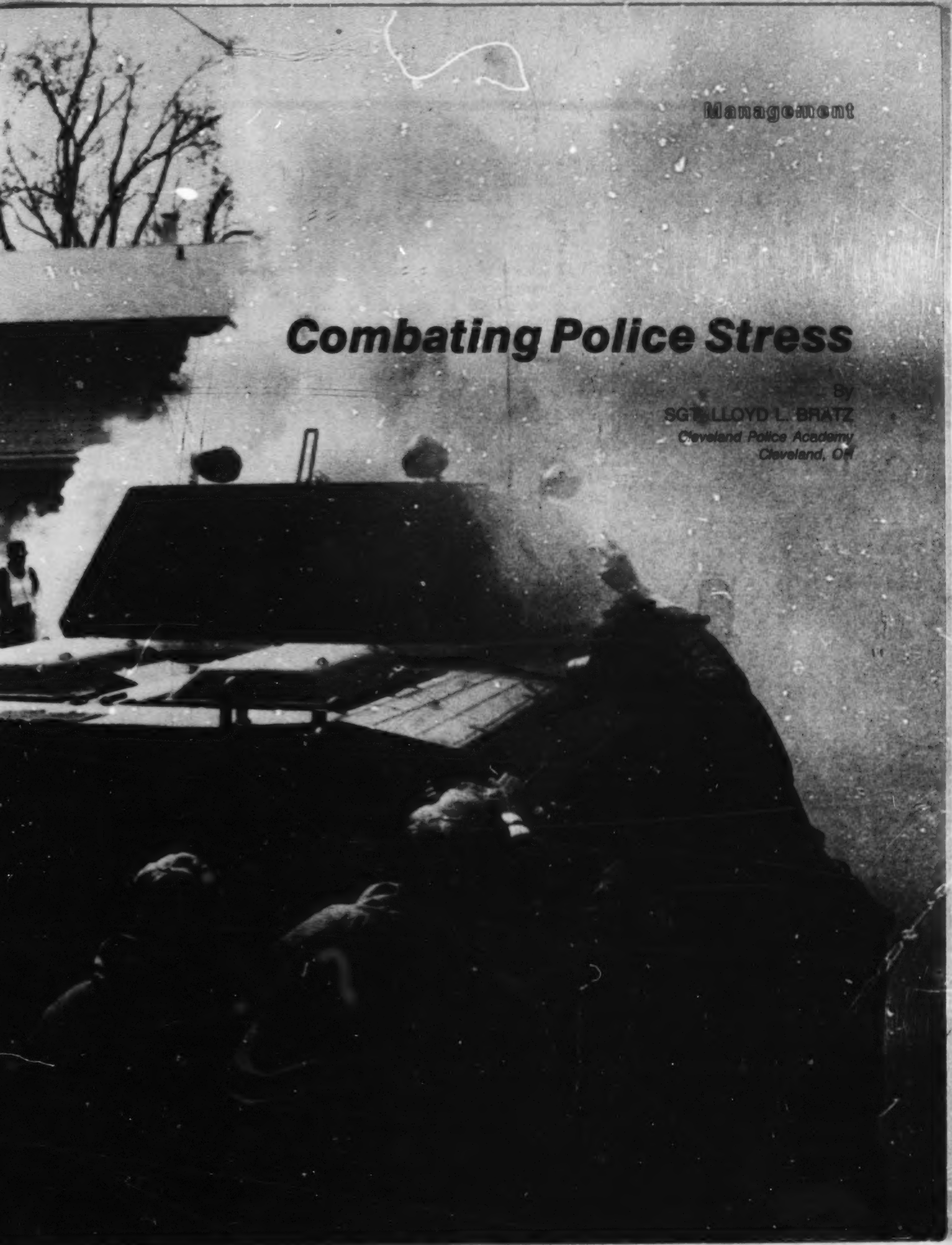
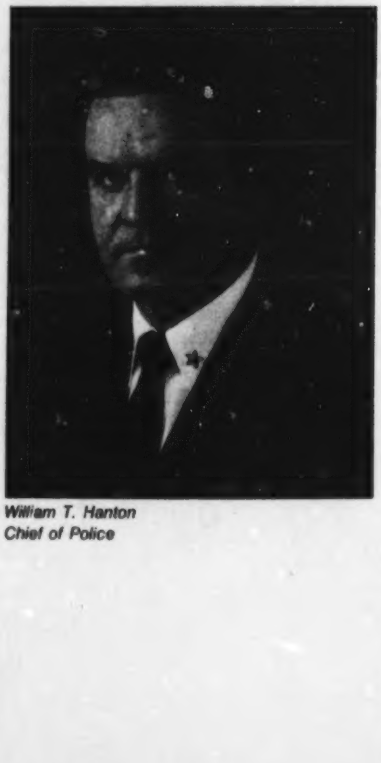
Management

Combating Police Stress

By
SGT. LLOYD L. BRATZ
Cleveland Police Academy
Cleveland, OH



Sergeant Bratz



William T. Hanton
Chief of Police

A police officer's role in contemporary America is rather paradoxical in nature. He is a savior, helper, and at times, referee. And then, as an enforcer, he becomes the root of many problems when he issues a traffic ticket, makes a physical arrest, or uses deadly force. This roller coaster ride is a process difficult to understand functionally and incomprehensible emotionally. This "help-or-hinder" syndrome tests an officer's emotions daily. Add to this the rigors of working weekends, holidays, nights, rotating shifts, and long hours, and it is easy to see why policing is considered highly vulnerable. This emotional "ride" taken by police officers is not a recent discovery. Yet, gone unchecked, it becomes devastatingly real. It is referred to as police stress.

Veteran officers across the Nation can narrate horror stories of how unbridled stress can cause pain and suffering to those it touches. Occupational burnout is a very real occurrence in American law enforcement. A police agency's reaction to personal stress is critical to the success or failure of the entire police mission. But, what are the factors which assist stress in operating so well within the police profession? Many believe it is a combination of occupational and personal issues that produce a system in which stress runs rampant.

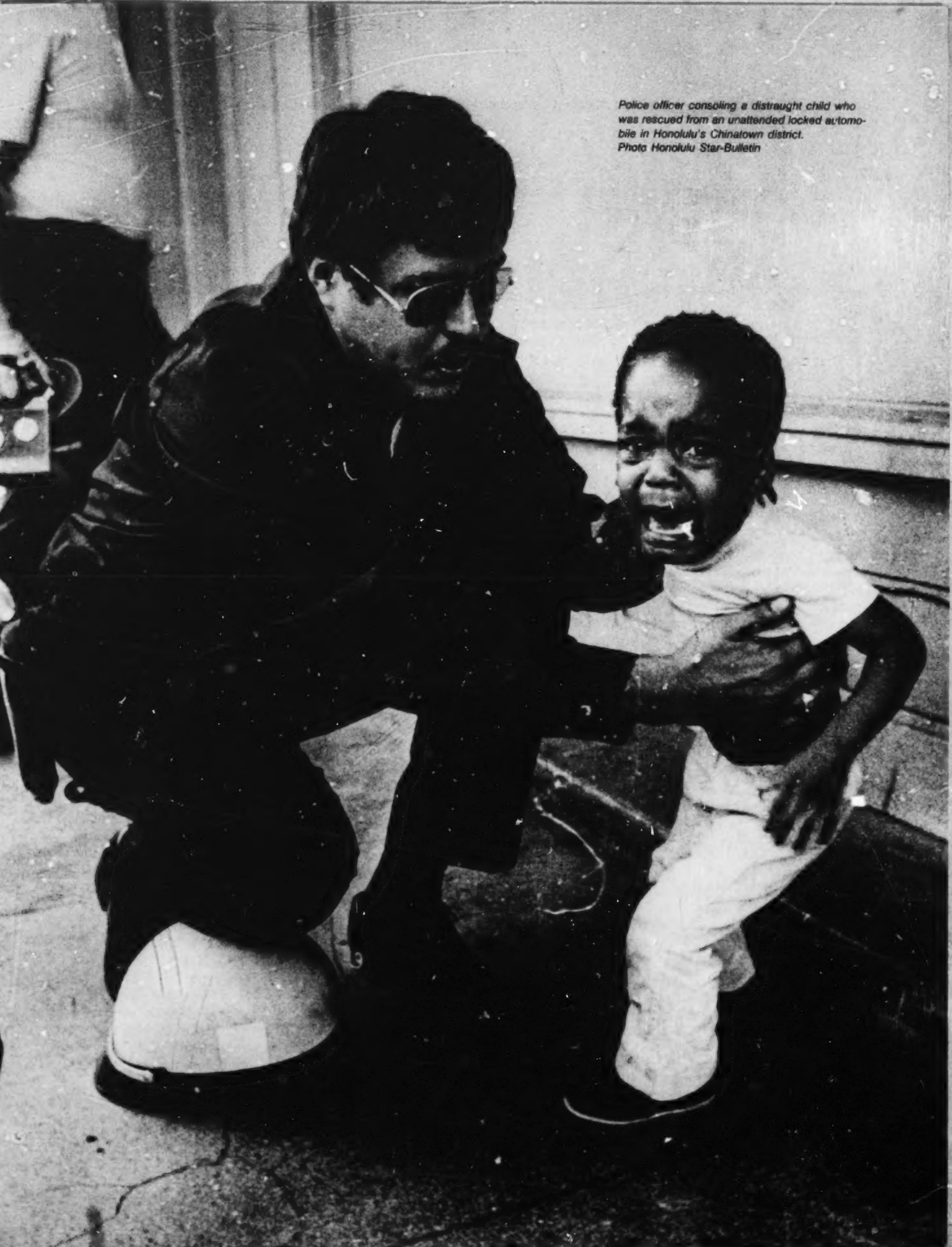
The Police Personality

The daily enigmas occurring in every person's personal life become greatly intensified for a police officer on his tour of duty. People don't request police assistance when their lives are orderly and proper. The police become involved when life's activities are in serious disarray and lives are in jeopardy. An automobile accident, a residential burglary, the theft of the family car, and the physical abuse of a wife or child are only a few of the numerous incidents which command police attention daily. These are anxious moments for the victims, and this feeling is easily transferred to the responding officer. Upon arriving at the crime scene, the individual officer must calm the people involved, stabilize the situation, obtain pertinent facts, and hopefully arrest the perpetrator(s). Quite an admirable feat!

The police, in such situations, become entangled in a web of personal puzzles and ceaseless on-the-job catastrophes. This perplexity engulfs the officer and colors the world a dreary gray. Watching children die and people beaten to the edge of life are difficult situations to handle, much less comprehend.

Divorce, alcoholism, drug usage, disciplinary problems, physical ailments, and even suicide become reactive measures adopted by those in the law enforcement system. The entire process molds and manipulates an officer into apathy and detachment.

Because of these problems, it becomes imperative that police administrators establish some type of release process for those within their command. Occupational stress is constant, and when left unchecked, can tear at the very fabric of law enforcement. Such pressures can become a gnawing, progressive disease which will slowly undermine the efficiency and potential of a police force. The problem is not usually discerned as significant until a cop mentally collapses or department morale plummets. The work required of police officers will not change; yet, there are ways to compensate for these pressures. Viable



Police officer consoling a distraught child who was rescued from an unattended locked automobile in Honolulu's Chinatown district.
Photo Honolulu Star-Bulletin

"Occupational burnout is a very real occurrence in American law enforcement."

solutions have been found which can assist in discovering and treating the problem of stress.

Approaches to Stress Management

Several constructive options are available. The following five approaches may be used in varying combinations or individually in combating stress in law enforcement.

Stress Unit

One approach prevalent in larger departments is to establish a special unit with the primary responsibility of counseling and conferring with members in need. While the officers assigned to this unit need not be certified psychologists or psychiatrists, they must be aware of counseling procedures and techniques and have sufficient knowledge to recognize potentially serious problems. Such officer-counselors must also be aware of available professional agencies equipped to handle stress-related problems. The support afforded by such a unit can be very successful in providing a means to vent one's frustrations. The officer talks over his problems with a good "listener" and this, in itself, may alleviate burgeoning tension.

Department Psychologist/Psychiatrist

Some departments may be able to acquire the services of a local psychologist or psychiatrist. Fees for this service could be handled on hourly "as needed" basis or through an annual retainer. A trained social scientist could also assist in developing marriage counseling programs and be of needed assistance during barricaded suspect or hostage negotiation incidents. Such a dual purpose could prove cost-effective to any financially conscious community.

Periodic Psychological Testing

Another alternative is to establish a routine psychological testing process at predetermined intervals, e.g., every 2 or 3 years or even on an annual basis. Hopefully, such a process, on a mass scale, would be able to identify officers reaching maximum mental limits. The tests used may vary, but the Minnesota Multiphasic Personality Inventory (MMPI) and the California Personality Index (CPI) are two possible evaluation methods. The professional testing measure used would assist administrators in determining the existence of a potential problem and reacting with appropriate solutions. Along with the standardized testing format, a subsequent interview must take place. The interview can better assist in the individual officer's profile to either reinforce or reject the actual test findings. As in each of the previous approaches, confidentiality is of utmost importance. Even if assistance is suggested, the officer should not be forced or coerced into receiving help.

Stress Seminar

An approach which excludes actual professional assistance is a stress training session attended by all departmental officers. This program could be instituted through a regional training school, a local college, or the department's own training academy. The program should consist of ways to detect stress problems, establishing that stress factors are prevalent in people-oriented occupations and coordinating solutions to them. Professionals in the fields of alcoholism, drug abuse, and marriage counseling may be enlisted to enhance the program's validity and expertise. An important portion of the seminar should be devoted to small group discussions, in which officers can compare experiences and frustrations. This talk session can be a priceless release mechanism for officers to discuss mutual areas of tension and concern. Such a program makes officers aware that stress problems do exist in the police profession and recognize various stress indicators. Further, a stress seminar shows that the upper command structure is acutely aware of the police officer as an individual and not solely consumed in crime statistics, budgetary considerations, and response time comparisons.

Physical Exercise

Various studies have indicated that exercises such as jogging, swimming, racquetball, and tennis are not only ways in which to become physically sound but are extremely valuable means of releasing pent-up stress. Physical exercise should not be overlooked as a way to counter the routine pressures accumulated by today's police officers.

Another premise which should appear attractive to police executives proposes that physically fit employees are a definite asset to their organization. Dr. Robert L. Fleck, director of NASA's Stress Laboratory, states that while the average worker efficiency drops 50 percent during the last 2 hours of the day, men from his ". . . conditioning unit are found to work at full efficiency all day-every day."[1] Dr. Kenneth Cooper of aerobic fame has consistently promoted exercise—running, swimming, and even walking as means to enhance physical fitness through conditioning of the cardiovascular system.[2]

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> **"The key is for police executives to view personal stress as a very real aspect of American law enforcement and formulate responses to stress indicators in a positive manner."**

The advantages of a healthy police force should be of interest to every police administrator. A lower rate of absenteeism and better job performance, along with the release of stress, are factors associated within the process of physical conditioning.

Cleveland Police Department Responses

The Cleveland, OH, Police Department has made substantial gains in the area of stress conditioning over the past several years. The pressure realized within enforcement activity has been confronted by the department by several means.

In March 1979, a unit was formed to combat the strain of urban policing. The Employee Assistance Unit is comprised of several patrol officers trained in counseling and referral techniques and reports directly to the chief of police. The keystone of the program is confidentiality, anonymity, and voluntary compliance.

One of the referral mechanisms of the Employee Assistance Unit is use of the police gymnasium. The physical exertion required to work out on the various equipment devices and free weights is a mental as well as physical venting process so important in releasing daily pressures. Additionally, the hiring of a full-time departmental stress consultant has proven extremely helpful for many officers, department employees, and their spouses.

A training program at the police academy has been instituted for all sworn officers. Referred to as "sensitivity training," the program touches on aspects of interpersonal communications, police-community relations, and crisis intervention techniques. The program is an efforrt to make officers more aware of the multiethnic cultures so prevalent in the city. Also, it is used to promote a better understanding of personal stress and crisis factors affecting police service in general.

All of these responses have promoted a more-positive image for the department, proving to the public that the department is attempting to improve its service, while showing individual officers that the department "cares" about its members and their well-being.

The key is for police executives to view personal stress as a very real aspect of American law enforcement and formulate responses to stress indicators in a positive manner.

Final Analysis

Today, American law enforcement is probably under more pressure that at any other time in recent history. The 1960's taxed police ability to respond with physical force in stabilizing civil unrest, demonstrations, and campus turmoil. The 1980's are unique in that individual officers have become susceptible to increasing legal, societal, and personal influences initiated on many fronts. Police officers tend to be placed in uncompromising situations. The considerations of city hall influences, community interactions, court decisions, and personal situations dramatically increase the omnipresent strain of actual survival of which every street officer must constantly be aware.

Many enlightened police administrators have realized their pivotal role and turned their attention to combating stress in an effort to compensate for this very real occupational malady. Yet, the question remains as to whether police agencies can properly react to this phenomenon. The tools and techniques are available; yet, implementation is required. There are no other choices. FBI

Footnotes

[1] Robert Fleck, "Physically Fit Employees, More Efficient Workers," Bureau of National Affairs *Communicator*, Summer 1982, p. 16.

[2] K.H. Cooper, *Aerobics* (New York: M. Evans, 1968); *The Aerobics Program for Total Well-Being: Exercise, Diet, Emotional Balance* (New York: M. Evans, 1982).

Stop Child Abuse Through Education

By
MICHAEL J. FLAHERTY
Chief of Police
Prince George's County
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Forestville, MD

The number of reported sexual child abuse cases has increased steadily in recent years. Statistics from the Maryland Department of Human Resources indicate that reports of child abuse statewide have risen 17 percent in general, with a 38-percent increase in reports of sexual abuse. Reported sexual child abuse in Prince George's County climbed from 53 cases in 1978 to 212 cases in 1983—a 300-percent increase. Recent incidents of child abuse and exploitation have caused alarm and concern in the community. Parents of small children have expressed this concern to patrol officers, officers conducting school and PTA programs, police administrators, and elected county government officials. Parents were asking for help in recognizing the signs of sexual child abuse and in knowing what actions to take when those signs become evident.

> **"... the SCATE Program ... represents a viable method for dealing with the issue of child molestation and exploitation."**

Chief Flaherty

The Program

The steady increase in reports of sexual child abuse, coupled with community concern, prompted the Prince George's County Police Department to implement a special program to combat this heinous crime. Stop Child Abuse Through Education (SCATE) is a comprehensive educational program developed by the Community Relations Division, in cooperation with the Child Abuse Section and the Prince George's County General Hospital's Sexual Assault Center.

The program is an extension of the police department's "Dangerous Stranger" program, as it applies to child molestation, and the "Child Molestation, When to Say No" program, which is concerned with the abuse of children by people they know. These programs are primarily presented to students and PTA's and have been offered in the county's schools for the past 7 years.

However, there was a need to furnish appropriate information to preschool children as well. Because of the large number of day-care centers and individual sitters, it was virtually impossible to educate these children on an individual basis. It became apparent that to be effective, the program must be designed to provide parents information vital to the protection of children of all ages. By participating in the program, parents become more aware of the problem of sexual child abuse. They are informed of some of the danger signals which may indicate that a child has been victimized and are given instruction in techniques to use when discussing the matter with their children. These parents are also told how and where to seek assistance if they believe sexual abuse has occurred.

The goal of the program is to replace anxiety with awareness and sensitivity, through education. This is accomplished by meeting two primary objectives. The first objective is to inform and educate parents and adults regarding sexual child abuse prevention, identification, investigation, and assistance for the victim and the family. The second objective, and anticipated result, is to get more people to report offenses of sexual child abuse, thereby enabling the police to identify, arrest, and prosecute the offenders.

The program is conducted by a panel comprised of an officer from the Safety Education Section of the police department's Community Relations Division, an investigator from the Child Abuse Unit, and a therapist from the Sexual Assault Center at the county hospital. The safety education officer opens the program by describing the purpose of the program and relating some recent incidents of sexual child abuse. The officer explains how to discuss the issue with children without frightening them or making them paranoid. "Secrets," "games," and "threats" are presented, as well as physical, emotional, and behavioral signs of sexual child abuse. The safety education officer's segment is completed with instruction on choosing "custodial caretakers" for children.

The child abuse investigator then presents a synopsis of the relevant laws and discusses the requirement of all educators, health practitioners, social workers, and law enforcement personnel to report suspected child abuse cases. A profile of potential offenders is offered, along with advice concerning what actions to take or not to take when dealing with an offender. The investigator discusses at what point a parent should become suspicious of

"... SCATE ... is meeting a very real need to educate the public about the perils of sexual child abuse and ways of combating this crime."

sexual child abuse and elaborates on certain aspects of investigative procedures, including required statements from parents, interviews with the victimized child, and the importance of the physical examination at the Sexual Assault Center. An explanation of post-arrest judicial procedures is provided to assist parents in understanding and dealing with the adjudication process. Other addressed topics include case screening and presentation to the grand jury, pre-trial conferences with the victim and parents, and trial procedures.

The Sexual Assault Center therapist outlines the general services, emergency services, followup counseling, and the Education and Community Outreach Program available through the Sexual Assault Center. The short- and long-term effects and general reactions-behavior for children in various age groups who are victims of sexual child abuse are also addressed. Parental reaction, ways of dealing with the victim's reaction, and effects on the family unit are recounted by the therapist, as well as improved ways to cope with the abuse. Mixing victim reactions with parental reactions and additional ways for other family members to be supportive concludes the therapist's segment.

The discussions are reinforced with a slide presentation which has been developed for the SCATE Program. In addition, a pamphlet is provided to participants in the program. The pamphlet presents facts and myths about sexual child exploitation. Indicators and symptoms of sexual abuse are reviewed, and information on correct reporting procedures is included. Numerous other topics, including selection of a day-care facility, are covered in the pamphlet, which also features a list of available resources.

Following the presentation, members of the panel entertain questions from the parents and elaborate further on important issues and concerns. This portion of the program has proven to be extremely valuable in facilitating the program's efforts to replace anxiety with awareness and sensitivity.

The Results

The SCATE Program was initially presented to several hundred parents during 10 presentations held at strategic locations throughout the county. As a direct result, 27 documented cases of child abuse have been reported to the police or the Sexual Assault Center.

The companies which provide cable television service to Prince George's County have advised the police department that they wish to tape a presentation of the SCATE Program and provide it to their viewers on the local educational cable television channel. This broadcast will be repeated several times during the year, thereby vastly augmenting dissemination of this vital information to county residents.

The SCATE Program is meeting a very real need to educate the public about the perils of sexual child abuse and ways of combating this crime. The effectiveness of the program is reflected in the analysis of questionnaires completed by initial program participants. The responses of the participants polled revealed the following:

—95.9 percent indicated they learned new information;

—99.2 percent indicated the program was beneficial;

—97 percent indicated that as a result of participating in the program, they were better prepared to discuss sexual child abuse with their children; and

—100 percent indicated they would recommend the program to friends and family members.

Conclusion

The SCATE Program is one of police and citizens working together. The program not only improves the quality and expands the scope of police service but also demonstrates to the public that police services are community-oriented and aimed at helping those in need. The program has also strengthened working relationships between the police department, the Sexual Assault Center, and the protective service agencies in Prince George's County.

The Prince George's County Police Department believes that the SCATE Program, coupled with intensive training on sexual assault investigation, represents a viable method for dealing with the issue of child molestation and exploitation. We will be happy to provide information to interested agencies. Inquiries about SCATE should be directed to:

Commander, Community Relations Division
Prince George's County Police Department
3415 North Forestedge Road
Forestville, MD 20747

Law Enforcement Recruiting

Strategies for the 1980's

"The law enforcement community must locate and develop highly skilled human resources to face the challenges of crime control in the 21st century."

By
KATHLEEN McCHESNEY
Special Agent
Criminal Investigative Division
Federal Bureau of Investigation
Washington, DC

Special Agent McChesney

The law enforcement community must locate and develop highly skilled human resources to face the challenges of crime control in the 21st century. Locating and developing this talent will be a difficult task, certain to be complicated by the competition between the public and private sectors for those same talented individuals.

In the 1960's and 1970's, national efforts directed at comprehensive crime control included changes in recruitment directions and strategies.[1] As law enforcement agencies began to seek candidates educated beyond the high school level, many State and local agencies found themselves competing against each other and the Federal agencies for college-educated candidates. Starting salaries for police officers in major metropolitan areas became competitive with their Federal counterparts, while some agencies paid premiums to employees with post high school or college educations in certain disciplines. Although the rate of law enforcement hiring is not increasing as rapidly as it was in the past decade, locating, recruiting, and retaining the best candidates remain critical issues for the law enforcement administrator. Hopefully, the applicant skills sought today will serve law enforcement's needs for the next 3 decades and the profession will continue to maintain a high employee retention rate.

Politics, socioeconomic factors, even weather, can influence crime patterns, and attempts to predict law enforcement's long term needs may be nothing more than projections of demographic data and statistics. In spite of this "best-guess" approach, a law enforcement agency that does not plan for the long and short term will need to retrain continually investigators with the skills (i.e., computers, foreign languages) necessary to address special crime problems. There are no simple formulas to assist the personnel planner in judging future needs; however, each must remain cognizant of ethnic and technical changes and how they may affect law enforcement in their communities.

A National Recruiting Program—The FBI Experience

The FBI's hiring needs are determined by several factors and are generally planned several years in advance of actual hiring. In the event of new investigative responsibilities or significant, unexpected crime problems, investigative personnel must be shifted in the short term to address the most pressing matters. Although the FBI receives thousands of applications for the Special Agent position each year, recruiting the most qualified candidates remains a serious consideration.[2]

In 1983, the FBI increased its Agent complement by 5.7 percent, and recruiters in the FBI's 59 field offices were advised to direct their efforts toward locating certain specialized candidates, particularly those with engineering, science or computer skills, or a foreign language ability. To unify, strengthen, and coordinate the 59 varied recruiting strategies which were ongoing in each of the FBI's field offices at the time, a National Applicant Recruiting Program was established. Included in the program was the development of a national recruiting strategy which would serve the FBI by assisting in identifying, processing, and hiring the best candidates for Special Agent and noninvestigatory positions.

"The FBI's National Recruiting Program has developed into a human resources planning group designed to meet the rapidly changing demands of the Bureau's varied law enforcement responsibilities."

Recruiters were tasked with matching the needs of the FBI and the occupational goals of potential candidates, a process which involves testing, screening, and formal and informal interviewing. Over a 2-year period (fiscal years 1983-84), the National Recruiting Program assisted in hiring 1,338 Special Agents (including an increase of 18.4 percent minorities and 39.2 percent women). Notwithstanding the directives of seeking specially skilled Agents, over one-half of the Special Agents were hired under the modified (now diversified) program, which requires a bachelor's degree and 3 years' professional work experience.[3]

Other law enforcement agencies, in varying degrees, can use strategies similar to those used in the National Recruiting Program consistent with the agency's or department's unique requirements, which may narrow the field of eligible candidates. The strategies described below, derived from past Bureau hiring practices as well as current personnel practices used in the public and private sectors, include: 1) The personnel forecast, 2) identifying an applicant pool, 3) needs matching, 4) intra/extra agency communications, and 5) process dynamics. Each component is part of an ongoing system in which the successes or problems of one component may directly affect another's function.

The Personnel Forecast

Forecasting is necessary when basic personnel planning is insufficient to predict future needs. Planners in the private sector have the luxury of current, valid market information with which to make strategic manpower decisions. The public sector, and law enforcement in particular, is subject to the most unpredictable events. Forecasting can be effective if careful attention is paid to obtaining sufficient, relevant data.

In many agencies and departments, identifying hiring needs occurs only at budget preparation time. Gathering information from all divisions relative to hiring needs should be part of a continual process, which includes the periodic redesign of organizational structures so as to provide the optimum balance between executive, manager, supervisor, investigator/patrol officer, and supporting positions (technical/clerical). Forecasting needs are to be expanded as far as possible, although some decrease in reliability is expected in multiyear periods.[4]

By seeking highly motivated, resourceful, and independent-thinking candidates, an agency will select individuals who will, in all likelihood, strive to improve employment status. In any pyramiding organizational structure, these individuals will, at some point, reach a plateau which they might not have attained had they sought employment with an organization where their highly valued skills and characteristics were not commonplace. The frustration which may result may lead to a retention problem.

Although the FBI, and law enforcement in general, has a low resignation rate,[5] retention is a potentially serious problem, particularly if those resigning possess similar valuable or unique skills. Ongoing retention studies are found to be particularly effective for large departments and should be conducted where possible. Apparent resignation patterns may be symptomatic of problems which are not obvious but perhaps easily resolved.

Identifying a Candidate Pool

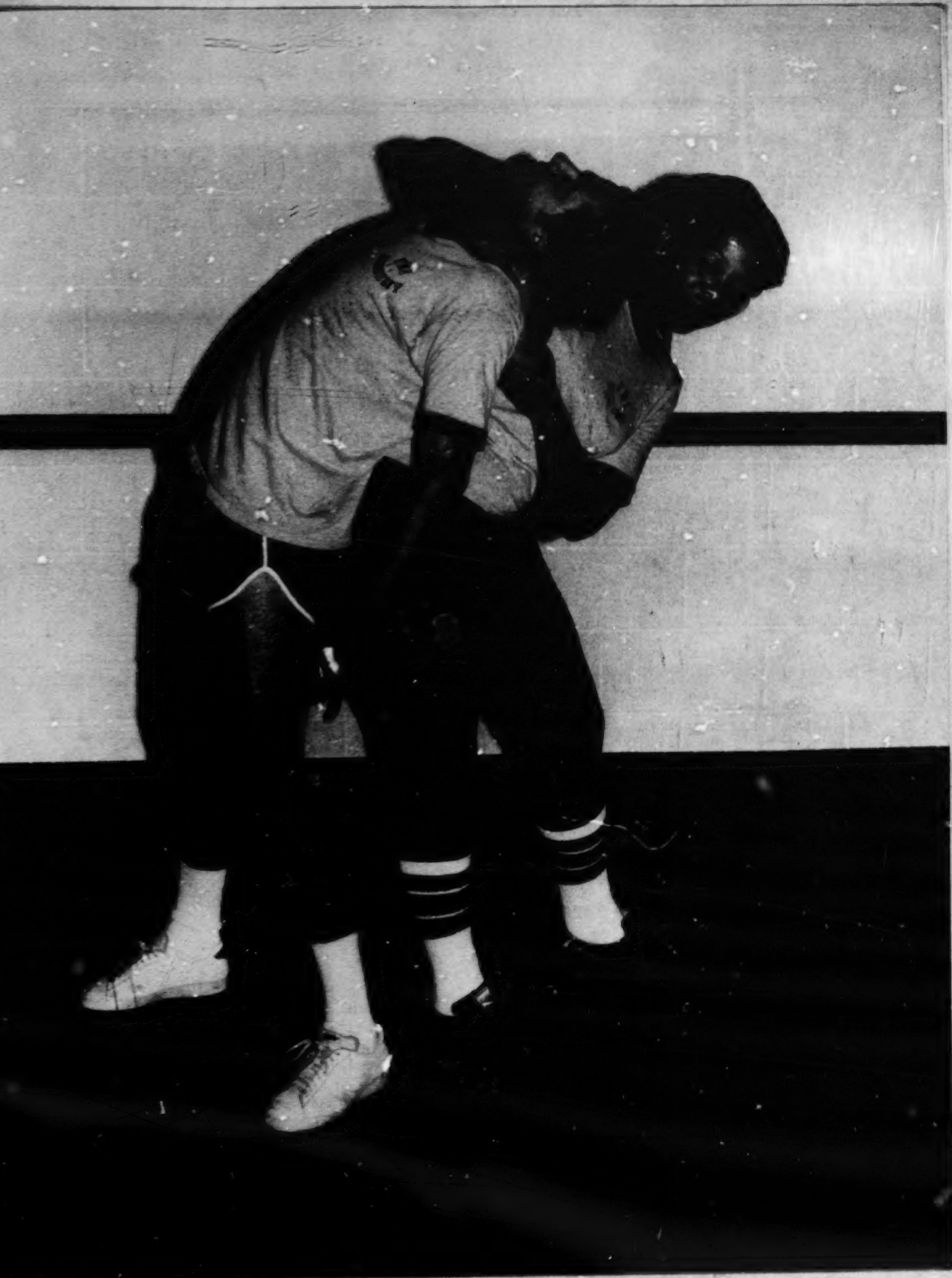
Once it is determined what skills/qualifications are critical to meet personnel needs, potential applicant candidates can be identified and located. In addition, any special goals of the department or agency should be considered at this time (i.e., increase of certain minority groups).

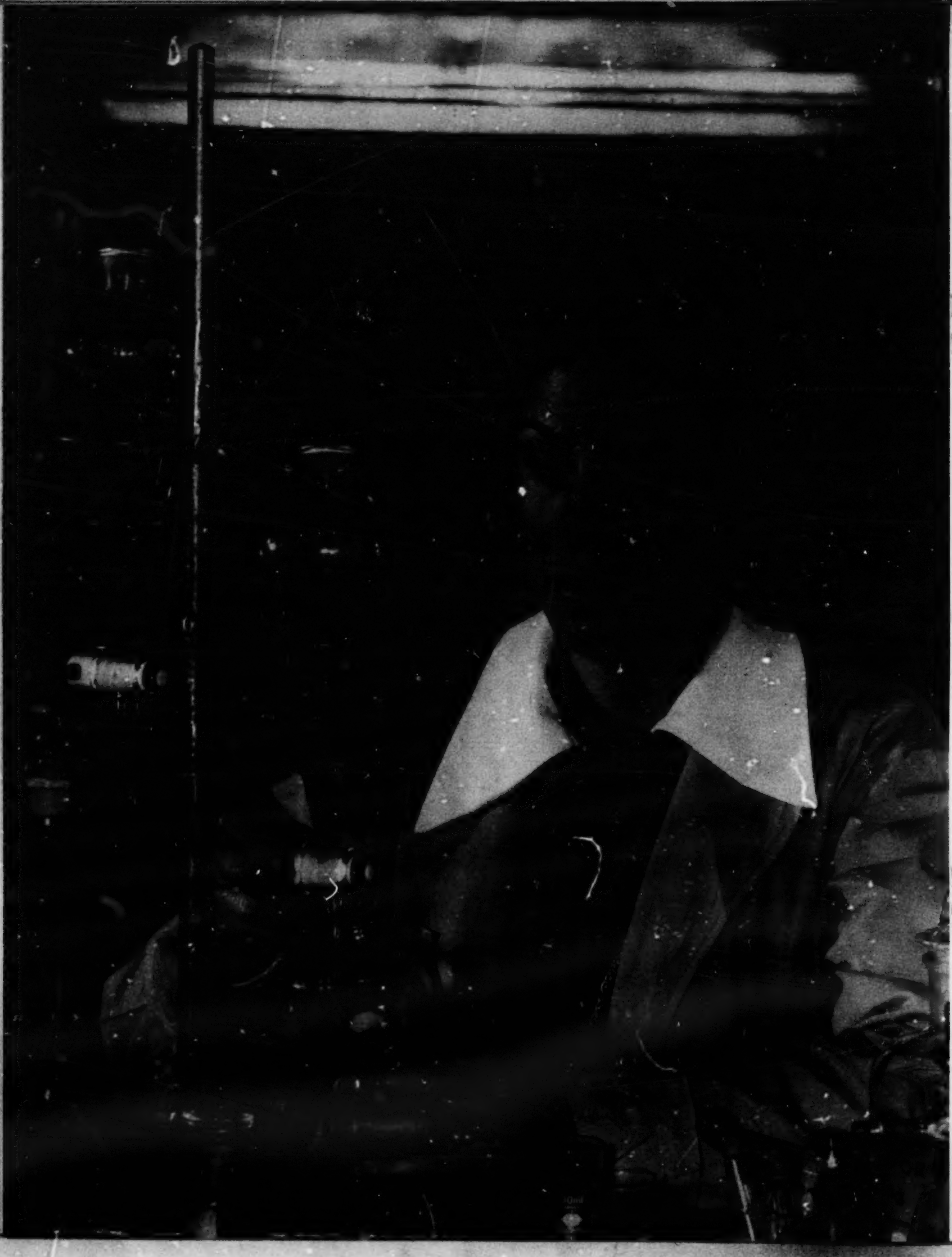
Part of the National Recruiting Program's goal was to identify for local recruiters where potential candidates were likely to be located. Information was obtained from several sources—data compiled yearly by various public and private groups regarding college and university graduates, demographics, successful recruiters, and from an ongoing survey of recently hired FBI Agents.

The FBI has always been fortunate to have a sufficient number of applicants for the Special Agent position; however, as the types of offenses and offenders have changed, many of the applicants have not necessarily met the current, more-specialized needs of the Bureau. As an example, the need for multilingual Agents has increased dramatically since 1982, while only a small percentage of new applicants speak a foreign language with the fluency necessary to conduct effective investigations. To deal with this dilemma, recruiters are directed to universities and colleges with strong foreign language programs or ethnic, multilingual communities.

Needs Matching

Current personnel systems are structured and modified by law, common practice and collective bargaining units, or labor unions. To be truly competitive for the skilled, college-





"Planning, combined with flexible personnel policies, will assist the public personnel administrator in meeting future needs with competent, motivated employees who will make significant contributions to the criminal justice system."

educated man or woman in future decades, agencies and departments must offer more than a relatively secure career position and competitive salary. Today's applicants have social and personal, as well as economic, needs that they may seek to fill in the workplace.

The excitement and pride commensurate with a law enforcement career is often not satisfactory for a highly marketable candidate. Work conditions, organizational structure, ancillary services, opportunities for advancement, and recognition may be important employment factors overlooked in the recruitment process. When agencies desire the best candidates, they should be prepared to offer reasonable benefits and be cognizant of societal changes to modify working conditions to new lifestyles. The agency or department which treats its employees as it did in the 1950's will not be competitive for today's men and women.

Intra/Extra Agency Communications

Through the National Recruiting Program, the FBI has been able to improve communication between personnel officials and field recruiters and between personnel officers and program managers. By promoting frequent dialogue between these groups, a framework for future effective personnel planning has been established. From the input (surveys) of recently hired Agents, recent communication methods can be reviewed and only those which are effective retained and/or modified.

In a media-saturated society, marketing is critical to hiring needs. Word of mouth, while extremely effective, is not sufficient for a total recruiting program involving substantial numbers of potential employees. Advertising is a critical recruiting strategy, and positive publicity should be encouraged. The National Recruiting Program has helped improve agency-applicant communications by using quasi-marketing strategies, i.e., up-to-date, full-color brochures and radio, television, and newspaper advertising.

Process Dynamics

Hiring employees is a process often regulated by law or policy; however, the process, as it sometimes does, should not become an impediment to hiring the best candidates. In a dynamic system, personnel administrators constantly monitor the process to insure that its structure does not discourage good candidates. Monitoring may be accomplished through statistical collection, interviews, or a letter/card feedback system.

In 1932, before the National Recruiting Program began, the average FBI Special Agent candidate waited 22 months between his/her application date and date of hire. It must be understood that with fewer positions available than the number of candidates and externally imposed fluctuations in hiring levels, there will be some lag time between application and hiring. Due to the nature of employment, extensive and time-consuming background checks must be conducted.

One of the main priorities of the National Applicant Recruiting Program was to improve the hiring process in both quality and efficiency. Moreover, through the efforts of the Personnel Office, computerization of testing and test results was improved. A significant new program was established to train applicant interviewers and recruiters nationwide, coupled with an advertising campaign that revamped and revitalized dated recruitment material.

One segment of the National Recruiting Program involves an ongoing survey of recently hired Agents with regard to two factors: 1) The most positive or negative factors influencing their decision to seek a law enforcement career (in this case with the FBI) and 2) what recruiting strategies, techniques, or events, if any, influenced their decision to join the FBI.[6]

With regard to motivational factors, most recruits were found to have joined the FBI for several similar reasons. Those factors were professional image of the FBI, personal knowledge of FBI Agents, and national reputation of the FBI.

Similarly, the most important recruiting technique or event noted was a positive personal contact between the candidate and an individual who was a Special Agent. The importance of the role-model approach, heretofore assumed, is now quantified. Instead of a limited number of field recruiters, there is a potential for the entire Special Agent population (over 8,000 Special Agents) to recruit new Agents. The FBI's recruiting survey can be adapted to all levels of law enforcement and is available through the FBI's Human Resource Planning Office.[7]

Intraagency communication is thus significant in making each Agent aware of his/her recruiting responsibility. Every contact Special Agents, investigators, or police officers make with law-abiding citizens is a potential recruiting contact. Important investigations resulting in positive publicity have the value of advertising the agency and its personnel. Likewise, negative publicity deters some good candidates who are affected by peer pressure or are unable to see beyond the criticism.

The National Recruiting Program has proven to be a successful method of recruiting on a large scale. Currently, the time elapsed for the average recruit between initial application and date of hire is 12 months. Test results are completed within 2 months, and within 4 months, individuals are advised if they are viable Special Agent candidates. The program was established with a built-in flexibility so that as personnel needs change directives are easily modified. Agency needs obviously vary; therefore, what benefits an agency of 20,000 may not work for a smaller or larger agency. Many of the basic concepts, however, (planning, communication, adaptability) can be tailored to any agency's personnel functions.

Minority Hiring—A Special Problem

The FBI seeks to recruit the most qualified men and women of all races. Demographic factors still affirm that there are fewer potential candidates in some categories based on smaller numbers of individuals having the prerequiste qualifications for the Special Agent position. Various groups of potential candidates are not equally drawn toward the law enforcement profession; however, those that are seem to be drawn for many of the same reasons.

For law enforcement agencies such as the FBI, where a college degree is required of all applicants, a look at the composition of graduating college classes indicates fewer minority (black) graduates in the near future.[8] With reduced numbers of blacks eligible to apply for some law enforcement jobs, and increased competition with the private sector for the minority employee, there may be profound difficulties in minority hiring in the 1990's.

Human Resource Planning

What can be done if attempts at human resource planning fall short of law enforcement needs? Law enforcement agencies need to employ continually a base of investigative generalists, complemented by specialists, and to update inservice training programs to insure that investigative abilities meet investigative needs. To fill an agency's current needs with only specialists will produce a glut of personnel who, during a crucial, changing period, may be unable to vary their investigative outlook.

The FBI's National Recruiting Program has developed into a human resources planning group designed to meet the rapidly changing demands of the Bureau's varied law enforcement responsibilities. Not all agencies or departments have the need for full-time personnel specialists, but all law enforcement agencies need someone who is responsible for human resource planning. Planning, combined with flexible personnel policies, will assist the public personnel administrator in meeting future needs with competent, motivated employees who will make significant contributions to the criminal justice system.

FBI

Footnotes

[1] National Advisory Commission on Criminal Justice Standards and Goals, *Police* (Washington, DC: U.S. Government Printing Office, 1973).

[2] The FBI tests (including retests) approximately 12,000 candidates per year. In 1982, 350 Special Agents were hired, 666 in 1983, and 672 in 1984.

[3] The FBI hires Special Agents under one of five program areas designed to meet the Bureau's diverse needs—law, accounting, science/engineering, diversified, and foreign language.

[4] Gary Dressler, *Personnel Management*, (Reston, VA: Prentice-Hall, 1984), p. 113.

[5] Bureau of National Affairs, *Job Absence and Turnover* (Washington, DC: U.S. Government Printing Office, 1981, 1982, and 1983).

[6] O. Glenn Stahl, *Public Personnel Administration* (New York, NY: Harper and Row, 1983). "It is incumbent upon the personnel agency to test the success of its various recruitment policies by keeping a check on the results."

[7] Human Resource Planning Office, Federal Bureau of Investigation, J.E. Hoover Building, 9th & Pennsylvania Ave. NW, Washington, DC 20535.

[8] *The Washington Post*, "Black Enrollment in Colleges Found to be Declining Nationwide," 7/6/85. College eligible blacks going on to college decreased 11 percent between 1975 and 1981; however, the number of female college students continues to increase.

Developing Productive Relationships with Private Security

"... creativity on the part of police administrators ... is ... the key component necessary for facilitating improved police-security relations."

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Private security today is a rapidly emerging field. There are currently more private security personnel employed than there are public police, with security personnel outnumbering sworn law enforcement personnel by nearly 2 to 1. Total expenditures for private protective resources also greatly exceed the budgets for public protection (Federal, State, local) so that the role of private security in our society is expanding significantly.[1] One can easily see the parallels between the 1980's and the 1880's in this regard.

While this trend is certainly disheartening to police executives for various reasons, wishing it weren't so won't make it go away. Professional police administrators can no longer emulate the behavior of ostriches regarding the role private security plays within their jurisdictions. The current demands of private citizens for better protection, coupled with budgetary constraints, mandate that police administrators develop cost-effective crime control strategies. The role that private security can plan within these programs is substantial, making it obvious to astute administrators that a positive relationship with private security practitioners must be cultivated.

The Problems of Public vs. Private

In 1980 Hallcrest Systems, Inc., conducted a comprehensive study of the nature and extent of private security efforts. This research, sponsored by the National Institute of Justice, had three major goals:

1) To update previous research on the general character of the private security industry;

2) To describe the contribution that private security makes to crime control and order maintenance and identify opportunities for improvement in this effort; and

3) To describe the working relationships between private security and public law enforcement agencies and develop recommendations for improving cooperation and coordination between them.[2]

The following summarizes what the authors, William C. Cunningham and Todd H. Taylor, found:

1) There is robust growth in private security with the expenditures and employment exceeding public law enforcement. This trend will continue as private security growth escalates while public law enforcement resources stabilize.[3]

2) The majority of law enforcement managers and officers have a general idea of the functions of private

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security, but the total scope of private security functions is beyond the comprehension of law enforcement personnel who have not interacted with the private sector in their community.[4]

3) Law enforcement executives perceive the performance of private security as being ineffective in reducing crime.[5]

4) Law enforcement officers rate the performance of private security personnel as poor in most areas.[6]

5) The low quality of security personnel is a major concern of police personnel. Law enforcement practitioners (as do most security practitioners in the study) favor increased State legislation to upgrade the quality of security personnel.[7]

6) The amount of interaction and cooperation between public police and private security is limited.[8]

7) Proprietary and contract security managers report more-frequent sharing of resources than police executives. The sharing of personnel, especially investigators, is the most frequently cited shared response by private security managers.[9]

8) Police and private security managers are both receptive to the idea that private security respond to minor criminal acts on the property it is assigned to protect and that some noncrime-related tasks be contracted out to private sector organizations.[10]

9) Major problems affecting the security-police relationship include police officers moonlighting in private security and the excessive number of false alarms to which police must respond.[11]

Strategies For Problem Solving

While these impediments to forming cooperative relationships between the public and private sector are substantial, the vast majority are rooted in a misunderstanding of one sector's roles and problems by the other. Most problems in understanding can be rectified through education and self-analysis. Perhaps the logical place to begin the problem-solving process for police personnel is through defining the problem. By understanding the misunderstanding, police can better gauge their own attitudes and consequently place them in an objective light.

The self-test presented below can serve to help public law enforcement personnel assess their knowledge of and attitudes about the private security sector in their jurisdictions:

—What is your immediate, instantaneous opinion of private security?

—Why do you hold those beliefs? On what are they based?

—When was the last time you discussed the role of private security with a private security practitioner?

—What similarities and differences are there between your present position and a comparable one in the private sector?

—Do you have a list of private security service firms in your jurisdiction?

—Do you know what professional security organizations are active in your area?

—What areas are patrolled by private security in your jurisdiction that were patrolled by police at one time?

—What can private persons or organizations do to help control crime in the high-crime areas of your jurisdiction?

—What areas of training are needed by security practitioners in your area?

—What areas of training is your department prepared to assist in delivering to private security persons and organizations?

After evaluating one's own knowledge and perceptions regarding police-security relationships, the time comes for affirmative educational efforts regarding the scope and functions of private security. These efforts can include contacts with private security practitioners and organizations. They can also include sponsoring seminars to educate private security personnel in the necessary police subjects. The Dallas, TX, Police Department instructs private security persons in such areas as the Texas criminal code, court testimony, police field operating procedures, crime prevention, the Dallas false alarm ordinance, and information necessary for successfully filing cases.[12] This program has been complemented with inviting local security officers to police shift briefings. There have also been efforts toward sending "Be On The Lookout" (BOLO) bulletins to nonlaw enforcement agencies.[13]

While both of these measures require administrative scrutiny concerning confidentiality, they give the police agency additional eyes and ears with which to locate wanted persons. The programs also provide private security agencies with a realistic view of police operations, which can foster a better working relationship between security and police especially with regard to requests for police service.

An additional benefit of all three of the Dallas programs is increased motivation of security personnel. Poor performance of security personnel is, in many cases, directly attributable to morale problems. If protection officers are not inspired while on the job, those who do not fit the stereotype of "warm bodies" can easily become "warm bodies." Others will leave their employment, thereby increasing the already high turnover rates present in the industry, a situation which in and of itself creates personnel problems, most of which manifest themselves through poor job performance.

While police overtures to private security agencies can help improve the training and motivation in security personnel, significant progress can also be made in the screening area. Although there does not appear to be any literature on this concept, it would seem that public law enforcement could assist in the pre-employment screening of security personnel. Even though substantial legal restrictions are in effect regarding the collection and dissemination of personal information on job applicants, the police are in the logical position to foster positive change in this area. If police are not part of the solution, they are, in all likelihood, part of the problem. Police agency executives should give this serious consideration.

Increasing the amount of cooperation between public and private protection agencies is certainly an important goal. As far as agencies working together more closely, upper management must establish clearly identifiable goals in this regard and implement policies to achieve those goals. Administrators have an extensive menu of options from which to choose. Steps to achieve better relationships and create closer cooperation include:

1) Analyze the crime prevention and crime-fighting capabilities of local guard services, alarm companies, and private investigators;

2) Establish joint committees to catalyze public and private crime control efforts;

3) Form public and private task forces in response to specific crime problems, such as credit card fraud, commerical robbery, and arson;

4) Invite representatives from private industry groups to address staff meetings of police supervisors;

5) Communicate with security organizations at the local level on current problems the police agency is having with private security, local laws, and court decisions which concern private security and other items of mutual interest;

6) Consider having police managers join local security organizations so that continuous informal communication is maintained; and

7) Actively support certification and accreditation efforts within the private sector.

Providing space for certification exams, assisting in security training efforts by local community service agencies for economically disadvantaged persons, and encouraging police personnel (crime prevention, investigative) who are eligible for security certification to apply for it are positive strategies. These measures can help in professionalizing local security personnel, recruitment of minorities for police positions, and developing the expertise of police personnel.

The remaining obstacles to improved police-security relationships are moonlighting by police officers in

> **"Increasing the amount of cooperation between public and private protection agencies is certainly an important goal."**

private security jobs and false alarms to which police must respond. While moonlighting has its pros and cons, police managers should carefully scrutinize the practice and develop sound departmental policies regarding it. A legal analysis of possible difficulties involved in moonlighting must be undertaken to uncover problems such as vicarious liability, insurance/benefit coverage, and State regulations governing the private security industry.

Both police and security managers need to take a hard look at these legal issues before problems occur. Attention should also be focused on personnel performance, employee loyalty, and possible conflicts of interest which may occur. These issues are of great importance as they relate to moonlighting, yet are often overlooked.

The false alarm dilemma can be attacked in several ways. One method is to pass ordinances which mandate fines for repetitive nuisance alarms. This remedy has been and will continue to be implemented by municipalities. It takes the burden of solving the false alarm problem from the police department and places it on the firms that sell and maintain intrusion alarm systems, making it a popular alternative for city officials to follow.

Another method of solving the false alarm problem is to have private security companies respond to and investigate all alarms. This can be done for a fee, so that it is profitable and encourages private security service firms to move into the market. At the same time, it is punitive for those businesses and individuals who are responsible for transmitting numerous false alarms. This approach has other advantages, such as cutting government costs that are incurred with nuisance alarms, eliminating or at least reducing the safety problems associated with false alarm response, and cutting the cost involved in apprehending burglars, a cost which has been estimated at $20,000 per burglar.[14]

While the thought of private security personnel responding to alarms may seem dangerous to police executives, it has been an ongoing practice. It may be a good idea for police managers to examine the apprehension of burglars and other criminals by private persons within their jurisdictions. They may be both surprised at the amount of criminals captured by private security personnel, and at the same time, see an opportunity to foster improved relationships with those persons. The creative implementation of training efforts directed toward security personnel is a good place to start. After all, it is this creativity on the part of police administrators that is perhaps the key component necessary for facilitating improved police-security relations.

CERTIFICATION PROGRAMS

Certified Protection Professional (C.P. P.)

The Certified Protection Program is administered by the American Society for Industrial Security (A.S.I.S.), 1655 North Fort Myer Drive, Suite 1200, Arlington, VA 22209. Phone: (703) 522-5800. It is oriented toward managers in the areas of security and investigation. There are approximately 3,000 persons certified under this program throughout the world, many of whom are publicly employed.

Certified Protection Officer (C.P.O.)

This program is new and is seeking to fill the void in the professional development of entry-level security personnel. It is geared to the line officer and first-line supervisor. The C.P.O. program is being administered by the Faculty of Continuing Education & Extension, Mount Royal College, 4825 Richard Road, S.W., Calgary, Alberta, T3E 6K6. Phone: (403) 240-6666.

Certified Security Trainer (C.S.T.)

The Certified Security Trainer program is for those individuals who are involved in the instruction of security personnel. It is an intensive program designed to set the training qualification standards so necessary in the security industry today. The program is administered by the Academy of Security Educators & Trainers (A.S.E.T.) under the direction of Dr. Richard W. Kobetz, C.S.T., North Mountain Pines Training Center, Box 1850, Winchester, VA 22601. Phone: (703) 662-7288.

Footnotes

[1] William C. Cunningham and Todd H. Taylor, "The Growing Role of Private Security," *The Protection Officer*, vol. 2, No. 1, April 1985, p.6.

[2] Ibid, p.6.

[3] Ibid, p.6.

[4] William C. Cunningham and Todd H. Taylor, "Interaction and Cooperation Between Law Enforcement and Private Security," *Journal of Healthcare Protection Management*, vol. 1, No.3, p.72.

[5] Supra note 1, p.6.

[6] Supra note 4, p.77.

[7] Supra note 1, p.6.

[8] Ibid.

[9] Supra note 4, p.79.

[10] Supra note 1, p.6.

[11] Ibid, p.6.

[12] John E. Driscoll, "Public & Private Security Forces Unite in Dallas," *The Protection Officer*, vol. 2, No. 2, July 1985, p.6.

[13] Ibid, p. 28.

[14] Dale Elliott, "The Best of Both Worlds: Cut False Alarms/Generate Additional Revenue," *Signal-gram*, March 1984, p.8.

Investigative Detention

An Intermediate Response

(Conclusion)

"...the Court constitutionalized the investigative stop and the attendant frisk as an intermediate police response between inaction and overreaction."

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

THE FRISK

Apart from the justification for initiating an investigative stop, clearly the most litigated issue in the area of investigative detention is the conduct and scope of a frisk. Indeed, the landmark case of *Terry* v. *Ohio*[85] focused on the authority of an officer to conduct a frisk because it was the frisk of the suspects which discovered the guns and gave the officer probable cause to arrest. The Supreme Court held:

> "... where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity is afoot and that the person with whom he is dealing may be armed and presently dangerous ... he is entitled for the protection of himself and others in the area to conduct a carefully limited search of the outer clothing of such persons in an attempt to discover weapons which might be used to assault him."[86]

The authority of officers to conduct a frisk is generally challenged by defendants in criminal cases for the simple reason that the frisk—as in *Terry*—uncovers weapons or other evidence of crime which the defendants seek to suppress. There are two general arguments: (1) There was no justification to conduct the frisk, or (2) the frisk extended beyond the permissible scope.

Justification for the Frisk

The Supreme Court has characterized the frisk as a fourth amendment search, because "even a limited search of the outer clothing for weapons constitutes a severe, though brief, intrusion upon cherished personal security...."[87] On the other hand, the Court has recognized that "there must be narrowly drawn authority to permit a reasonable search for weapons for the protection of the officer ... regardless of whether he has probable cause to arrest the individual for a crime."[88]

Just as an investigative stop must be supported by articulable facts which establish reasonable suspicion that criminal activity is afoot, a frisk must be supported by reasonable suspicion to believe that the individual who has been lawfully stopped is "armed and dangerous."[89] As with the reasonable suspicion to make an investigative stop, the reasonable suspicion to conduct a frisk may be based on facts derived from either firsthand knowledge or secondhand information and the logical inferences which an experi-

Special Agent Hall

enced officer is allowed to draw from those facts—i.e., the totality of the circumstances.

However, the justification for a stop is not necessarily justification for a frisk, and in each case, an officer conducting a frisk must be prepared to point to the specific and articulable facts which justified that particular intrusion.

For example, in *Ybarra* v. *Illinois*,[90] police officers had obtained a search warrant for a tavern based on reliable informant information that the bartender was selling tinfoil packets of heroin. When the officers arrived at the tavern to execute the warrant, there were several customers present, including Ybarra. The officers immediately conducted a pat-down search of the customers for weapons. The officer who frisked Ybarra felt what he described as "a cigarette pack with objects in it." After frisking the remaining customers, the officer returned to Ybarra and removed from his pants pocket what turned out to be a cigarette pack containing six tinfoil packets of heroin. The prosecution offered several arguments to support the discovery of the heroin, including the two-pronged argument that the officer was entitled to frisk Ybarra for weapons under the *Terry* doctrine and that the frisk yielded probable cause to believe that Ybarra possessed narcotics justifying the seizure and search of the cigarette pack. The Supreme Court did not address the second prong because the initial frisk of Ybarra "was simply not supported by a reasonable belief that he was armed and presently dangerous. . . ."[91] The Court noted several factors which were significant:

(1) When the officers entered the tavern, there was sufficient lighting to observe those present;
(2) The police did not recognize Ybarra as a person with a criminal history or as one who might be inclined to assault them;
(3) Ybarra's hands were empty and he gave no indication of possessing a weapon; and
(4) Ybarra was not acting in a threatening manner.

Balanced against these factors, the Court ruled that "the State is unable to articulate any specific fact that would have justified a police officer at the scene in even suspecting that Ybarra was armed and dangerous."[92] The Court concluded:

> "Nothing in Terry can be understood to allow a generalized 'cursory search for weapons' or, indeed, any search whatever for anything but weapons. The 'narrow scope' of the Terry exception does not permit a frisk for weapons on less than reasonable belief or suspicion directed at the person to be frisked. . . ."[93]

Undoubtedly, the *Ybarra* decision reflects the fact that Ybarra was in a public place along with other customers at the time he was subjected to the frisk. The case does not preclude the possibility that police may be justified in frisking people located on the premises where a search warrant is being executed. Clearly, such action would be justified so long as the officers can point to specific factors which caused them to reasonably suspect that the person frisked was armed.

"...an officer conducting a frisk must be prepared to point to the specific and articulable facts which justified that particular intrusion."

The factors which suggest the presence of danger to an officer are immeasurable. But it can be instructive to consider some of those which have been approved by the courts.

Specific Information

It is difficult to imagine a stronger indication of danger to an officer than specific information derived from witnesses or other reliable sources that a person is armed. In *Adams* v. *Williams*,[94] the Supreme Court upheld the frisk of a person by an officer who had just received information from a reliable informant that the suspect possessed narcotics and had a gun in his waistband. Following a review of the factors justifying the officer's reliance on the hearsay information received from the informant, the Court reasoned:

> "Under these circumstances the policeman's action in reaching to the spot where the gun was thought to be hidden constituted a limited intrusion designed to insure his safety, and we conclude that it was reasonable."[95]

Suspicious Bulges

A second factor which may justify a protective frisk is the observation of a suspicious bulge in the suspect's clothing. In *Pennsylvania* v. *Mimms*,[96] officers stopped an automobile with an expired license plate and ordered the operator to exit the vehicle. When Mimms got out of the car, one of the officers observed a "large bulge" under his sports jacket. The officer frisked Mimms and discovered a loaded revolver in his waistband.

After considering and upholding the authority of the officers to order Mimms out of the car, the Supreme Court considered the validity of the frisk, which was triggered by the officer's observation of the suspicious bulge:

> "The bulge in the jacket permitted the officer to conclude that Mimms was armed and thus posed a serious and present danger to the safety of the officer. In these circumstances, any man of 'reasonable caution' would likely have conducted the 'pat-down.'"[97]

It is interesting to note that in the *Mimms* case, the facts which justified the initial stop did not suggest the presence of weapons or any threat to the officers. The observation of the suspicious bulge in Mimms' clothing was sufficient by itself to justify the frisk.

Nature of Suspected Criminal Activity

Although the reasonable suspicion which justifies a stop does not automatically justify a frisk, in some instances the very nature of the suspected criminal activity may suggest the presence of weapons. A good example is *Terry* v. *Ohio*,[98] where the Supreme Court upheld the frisk of three men suspected of planning to commit a store robbery. The Court held that the actions of the three men were consistent with the officer's hypothesis that they were contemplating a robbery, "which, it is reasonable to assume, would be likely to involve the use of weapons."[99] Thus, the reasonable suspicion supported not only the belief that criminal activity was afoot but also that those engaged in that activity were armed and dangerous. Clearly, officers would be justified in conducting a frisk of a person suspected of involvement in criminal activity which ordinarily involves the use or threatened use of weapons. The presence of weapons may be reasonably inferred from the nature of the criminal activity.

More difficult issues arise when the suspected criminal activity does not—standing alone—support a reasonable presumption that weapons are present. It is not sufficient for the officers to simply point to the seriousness of the criminal activity. For example, the courts have declined to adopt as a general premise that those who deal in narcotics are armed and dangerous, notwithstanding the conceded seriousness of the crime and the fact that narcotics offenders are in fact often armed and violent.[100] In those instances, officers must be capable of factually supporting their suspicions that a suspect is armed. The reasonableness of those suspicions may be supported by the officer's prior experiences in investigating similar types of activity,[101] as well as the officer's personal observations of the suspect and his demeanor, but will not be presumed simply because of the seriousness of the suspected criminal activity.

Discovery of Weapons

When officers observe a weapon in the vicinity of one who has been lawfully stopped, they may reasonably suspect that other weapons are present which pose a threat.

In the recent case of *Michigan* v. *Long*,[102] police officers conducted a frisk after observing a large hunting knife on the floorboard of an automobile, the operator of which appeared to

"...officers would be justified in conducting a frisk of a person suspected of involvement in criminal activity which ordinarily involves the use or threatened use of weapons."

be under the influence of some intoxicant. In evaluating the officers' actions, the Supreme Court noted:

(1) The hour was late;
(2) The area was rural and isolated;
(3) The individual being investigated appeared to be under the influence of some intoxicant; and
(4) The officers conducted the frisk only after they observed a large hunting knife in the interior of the car.

The Court reasoned that it was not unreasonable for the officers to take "preventive measures to ensure that there were *no other weapons* within Long's grasp before permitting him to reenter his automobile."[103]

In such cases, it is irrelevant that the weapons observed may be lawfully possessed by the suspect. As the Court has explained:

> "The purpose of this limited search is not to discover evidence of crime, but to allow the officer to pursue his investigation without fear of violence, and thus the frisk for weapons might be equally necessary and reasonable, whether or not carrying a concealed weapon, violated any applicable state law."[104]

Various other factors have been considered by the courts as significant in justifying a frisk, including the officer's prior expertise with a suspect,[105] extreme nervousness of the suspect,[106] or furtive gestures or movements.[107] An officer must be able to recognize and articulate in a given case the reasons for suspecting that weapons are present, and then, he may conduct a weapons search *limited in scope* to this protective purpose.[108]

Scope of the Frisk

The frisk of a person, though lawful at its inception, may nevertheless offend the fourth amendment if the police action exceeds the boundaries necessary to accomplish its purposes. The sole object of a frisk is to determine whether a weapon is present and to neutralize the threat of physical harm to the officer and others. Two issues are significant: The *breadth* of the frisk, i.e, now *extensive* an area may be searched, and how *intensive* may the search be within that area.

Breadth of the Frisk

The decision in *Terry* v. *Ohio* made it clear that a person suspected of possession of a weapon may be subjected to a frisk. The facts in *Terry* did not require the Court to go beyond the issue of frisking the person, and in fact, the Court specifically noted that limitations with respect to the scope of the frisk would best be developed "in the concrete factual circumstances of individual cases."[109]

In two cases after *Terry*, the Court approved what may be described as limited extensions of the protective frisk where the safety of police officers was at stake. In *Pennsylvania* v. *Mimms*,[110] the Court held that police may order persons out of lawfully stopped automobiles and may frisk them if there is reasonable suspicion to believe they are armed. Although the *Mimms* decision did not reduce the standard of justification for a frisk, it approved an incremental increase in the control the officer could exercise over the detainee. The Court reached its decision by balancing the fourth amendment interests of the person who is already lawfully detained against the legitimate need for protecting police officers engaged in automobile stops. Recognizing the "inordinate risk confronting an officer as he approaches a person seated in an automobile..."[111] the Court concluded that any additional intrusion occasioned by the action of ordering that person out of the vehicle is *de minimus*. In *Adams* v. *Williams*,[112] the Court approved the action of an officer who, acting on an informant's tip that the suspect possessed narcotics and had a gun in his waistband, reached into an automobile and removed the offending weapon without so much as a preliminary pat-down. Although neither of the two cases specifically broadened the scope of a frisk, each demonstrated a sensitivity on the part of the Court to the risks which confront law enforcement officers engaged in investigative detentions.

The Court squarely confronted the issue in the recent case of *Michigan* v. *Long*.[113] Police officers on patrol at night in a rural area observed a car speeding and driving erratically. When the car turned onto a side road and swerved into a ditch, the officers approached it to investigate. By the time the officers reached the car the only occupant, Long, had exited the vehicle, leaving the driver's door open. Long did not respond initially to a request for his operator's license, but complied when the request was repeated. When one of the officers asked for the vehicle registration, Long again did not respond until the request was repeated, and then he turned from the officers and walked back toward the open door of the vehicle. (One of the officers later testified that Long appeared to be under the influence of some intoxicant.) Through the open door of the car the officers observed a large hunting knife on the floorboard of the driver's side. Long was immediately subjected to a frisk which revealed no weapons, and one of the officers shined his flashlight into the interior of the car where he observed something protruding from beneath the armrest of the front seat. Closer examination disclosed that the object was an open pouch containing what appeared to be marijuana. Long was then arrested, and a further search of the car revealed 75 pounds of marijuana in the trunk. The Michigan Supreme Court reversed Long's conviction for possession of marijuana on the grounds that the search of the interior of the car could not be justified as a protective search for weapons, and the remaining evidence was discovered as a result of the initial fourth amendment violation.

In reversing the decision of the Michigan court, the Supreme Court defined the issue as "the authority of a police officer to protect himself by conducting a Terry-type search of the passenger compartment of a motor vehicle during the lawful investigatory stop of the occupant of the vehicle."[114]

Referring to earlier decisions which had given deference to the needs of law enforcement officers to protect themselves while engaged in investigative detentions,[115] as well as full blown arrests,[116] the Court ruled that the case law supports the principle that threats to the police may arise from the possible presence of weapons in the "*area surrounding* a suspect,"[117] as well as on the person.

Accordingly, the Court concluded:

> "...the search of the passenger compartment of an automobile, limited to those areas in which a weapon may be placed or hidden, is permissible if the police officer possesses a reasonable belief ... that the suspect is dangerous and the suspect may gain immediate control of weapons."[118]

In reaching its conclusion, the Court rejected the apparent assumption of the State court that Long was effectively under control of the officers, and therefore, could not gain access to any weapon that might be in the car. The Court gave three reasons for its view that the need for the weapons search continues:

(1) The suspect, even though detained, may nevertheless break away from police control and retrieve a weapon;
(2) If the suspect is not under arrest, he will eventually be permitted to reenter his automobile where he will then have access to any weapons inside; and
(3) Even during the course of the detention, the suspect may be allowed to reenter the vehicle before the investigative detention has been concluded.

In either case, the officer remains vulnerable to the threat posed by the possible presence of weapons, and the fact that the suspect is not under a full custodial arrest heightens that risk.

The *Long* decision is an interesting case for at least three reasons. First, it represents an effort by the Court to establish a bright-line rule to govern situations where an officer has to make a "quick decision as to how to protect himself and others from possible danger."[119] Second, it significantly—and logically—expands the scope of the frisk for weapons as originally enunciated in the *Terry* case and recognizes that "suspects may injure police officers and others by virtue of their access to weapons, even though they may not themselves be armed."[120] Accordingly, the frisk for weapons may extend into the area surrounding the suspect. And third, the decision recognizes the authority of the police to seize evidence or contraband other than weapons lawfully discovered during a valid frisk. The Court held:

> "If while conducting a legitimate Terry search of the interior of the automobile, the officer should, as here, discover contraband other than weapons, he clearly cannot be required to ignore the contraband, and the Fourth Amendment does not require its suppression in such circumstances."[121]

Implicit in the *Long* decision is the authority to examine the contents of any containers within the area of the suspect, or within the passenger compartment of his vehicle, capable of containing weapons. Presumably that authority would not extend to locked containers where immediate access to weapons would not exist, but the issue remains unresolved.

Although the permissible breadth of the frisk has now been defined by the Supreme Court, there remains the issue of the permissible *intensity* of the frisk within that area.

Intensity of the Frisk

Because the sole object of a frisk is to locate weapons, the intrusion must be strictly limited to accomplish that object, and no more. A lawfully initiated frisk is unlikely to generate a challenge to the intensity of the frisk if a weapon was in fact located. The issue is more likely to arise when an officer conducts a frisk for weapons and discovers other items of evidence or contraband. As noted in the *Long* deci-

"...law enforcement officers [should] limit the intensity of a frisk for weapons to the level necessary to accomplish the purpose for which it is intended."

sion, the evidence or contraband thus discovered will be admissible if the frisk did not exceed permissible bounds; however, the defense may contend that the officer went further than reasonably necessary to assure that no weapons were present.

In *United States* v. *Vaughan,*[122] narcotics task force agents stopped several suspects during the course of a narcotics investigation. One of the suspects, Vaughan, was carrying a vinyl briefcase which was seized by one of the agents and opened, disclosing some documentary evidence of a drug smuggling operation. One of the issues raised by the defendant was the opening of the briefcase by the agent. The Federal appellate court sustained the trial court's suppression of the evidence. In response to the Government's assertion that the search was justified as a protective frisk, the court stated that "the agents could have felt the briefcase without opening it to see if any weapons were in it and that the opening of the case to search further was not justified."[123] In the court's view, the briefcase was sufficiently soft and thin that any weapons could have been felt through the cover. In simple terms, the frisk was justified at its inception, but the agent went further than necessary to accomplish his purpose.

A similar issue arises when a law enforcement officer pats down a suspect for weapons and removes other evidence or contraband instead. There are two possible justifications for the seizure of the items.

First, the officer may be able to satisfy a reviewing court that he reasonably believed that the object he felt during the pat-down could have been a weapon of some type. In considering this argument, it should be remembered that the Supreme Court has held that the validity of the frisk is not dependent upon whether a weapon is possessed legally under State law. Therefore, the officer is not limited to checking only those objects ordinarily covered by concealed weapons statutes (e.g., firearms). An unidentified object which could reasonably be used as a weapon against the officer can and should be removed from the suspect. If the object turns out to be evidence or contraband—rather than a weapon—the admissibility of that evidence in any subsequent prosecution will depend on the ability of the officer to articulate his reasons for believing the object he felt could have been a weapon of some type warranting closer examination.[124]

The alternative justification for the seizure is a probable cause argument: Assuming the officer was justified in conducting a frisk for weapons, what he perceived through the sense of touch established probable cause to believe the suspect possessed evidence or contraband. The Supreme Court has never addressed this issue, but the concept is consistent with the general principle that probable cause may be based on the sensory perception of an officer as interpreted in light of his knowledge and experience.

In *Ybarra* v. *Illinois,*[125] an officer engaged in executing a search warrant for heroin at a tavern removed a cigarette pack containing heroin from a customer who was being frisked for weapons. The State did not seek to justify the seizure by contending that the officer thought the object he felt was a weapon. Rather, the State contended that given the officer's knowledge of the nature of the evidence described in the warrant, the pat-down yielded probable cause to believe Ybarra was carrying narcotics. The Supreme Court did not reach that issue because it considered that frisk unjustified at its inception because there was no reasonable suspicion to believe Ybarra was armed. However, there is no logical basis for believing that the Court would not accept the concept that objects *felt*, or otherwise perceived, during the course of a valid frisk can establish the probable cause necessary to extend the intrusion.

The important lesson for law enforcement officers is to limit the intensity of a frisk for weapons to the level necessary to accomplish the purpose for which it is intended. As the Supreme Court stated in *Terry* v. *Ohio:*

> "... a search which is reasonable at its inception may violate the Fourth Amendment by virtue of its intolerable intensity and scope."[126]

CONCLUSION

Terry v. *Ohio* and its progeny do not create a new category of searches and seizures. Undoubtedly, from the earliest days of our country, law enforcement officers have conducted brief stops of individuals to investigate suspicious activities, not because there was some specific statutory or constitutional language authorizing it, but because common sense suggested that it was a normal part of their duties to detect and prevent crime. The *Terry* case did two things: (1) It recognized that even apart from an arrest, police action which deprives a person of his freedom of movement—however temporary—is governed by the fourth amendment's proscription against unreasonable searches and seizures; and (2) it recognized that in appropriate circumstances, such activities can be reasonable, even in the absence of probable cause to arrest. In short, the Court constitutionalized the investigative stop and the attendant frisk as an intermediate police response between inaction and overreaction.

The reasonableness standard which governs every aspect of an investigative detention reflects the need for flexibility in graduating police responses to the demands of any particular situation; but responsibility is the ever-present companion to authority, and that same flexibility imposes a heavy burden on law enforcement officers to tailor their actions to the circumstances of each case.

The Constitution does not require a police officer confronted with possible criminal activity to choose between the two alternatives of making an arrest (when probable cause may be absent) or walking away (allowing a crime to occur or a criminal to escape). The investigative detention doctrine provides an *intermediate response* which, in the appropriate circumstances, constitutes the "essence of good police work."[127]

Footnotes

[85] 392 U.S. 1 (1968).

[86] *Id.* at 30–31.

[87] *Id.* at 24–25.

[88] *Id.* at 27.

[89] *Id.* at 24. *See also, Sibron* v. *New York*, 392 U.S. 40 (1968).

[90] 444 U.S. 85 (1979).

[91] *Id.* at 92–93.

[92] *Id.* at 93.

[93] *Id.* at 93–94.

[94] 407 U.S. 143 (1972).

[95] *Id.* at 148.

[96] *Supra* note 72.

[97] *Id.* at 338.

[98] 392 U.S. 1 (1968).

[99] *Id.* at 28.

[100] *See, e.g., United States* v. *Oates*, 560 F.2d 45 (2d Cir. 1977); *United States* v. *Ceballos*, 654 F.2d 177 (2d Cir. 1981).

[101] *See, e.g., United States* v. *DelToro*, 464 F.2d 520 (2d Cir. 1972).

[102] 77 L.Ed.2d 1201 (1983).

[103] *Id.* at 1221.

[104] *Supra* note 94, at 146.

[105] *See, e.g., United States* v. *Romero*, 692 F.2d 699 (10th Cir. 1983).

[106] *See, e.g., United States* v. *Pajari*, 715 F.2d 1378 (8th Cir. 1984).

[107] *Id.*

[108] *Supra* note 94, at 146.

[109] *Supra* note 85, at 29.

[110] 434 U.S. 106 (1977).

[111] *Id.* at 110.

[112] *Supra* note 94.

[113] 77 L.Ed.2d 1201 (1983).

[114] *Id.* at 1212.

[115] ***Michigan* v. *Summers***, 452 U.S. 692 (1981); *Pennsylvania* v. *Mimms*, 434 U.S. 106 (1977); *Adams* v. *Williams*, 407 U.S. 143 (1972).

[116] *Chimel* v. *California*, 395 U.S. 752 (1969); *New York* v. *Belton*, 453 U.S. 454 (1981).

[117] *Supra* note 113, at 1220.

[118] *Id.*

[119] *Id.* at 1222.

[120] *Id.* at 1219.

[121] *Supra* note 113, at 1220.

[122] 718 F.2d 332 (9th Cir. 1983).

[123] *Id.* at 335.

[124] *See United States* v. *DelToro*, 464 F.2d 520 (2d Cir. 1972), (the court declined to credit the officer's explanation that he removed a folded $10 bill containing cocaine from a suspect because he thought it was a razor blade).

[125] 444 U.S. 85 (1979).

[126] *Supra* note 85, at 18.

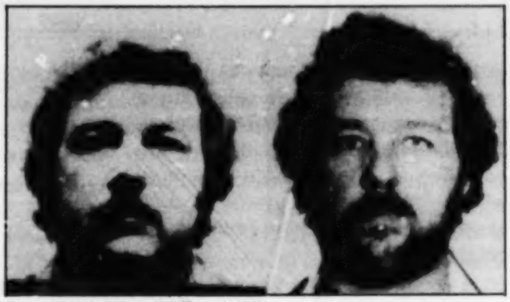
[127] *Adams* v. *Williams*, 407 U.S. 143, at 145 (1972).

Cross Keys

Officials at a Pennsylvania correctional institution discovered a handmade cross hanging around the neck of an inmate. The cross was fashioned using two handcuff keys and a leg iron key, as shown.

(Submitted by the Pennsylvania Department of Corrections)

WANTED BY THE FBI



Photographs taken 1977 and 1981

Because of the time factor in printing the FBI Law Enforcement Bulletin, *there is the possibility that this fugitive has already been apprehended. The nearest office of the FBI will have current information on this fugitive's status.*

Arthur Reid Collum

Arthur Reid Collum, also known as Arthur Collum, Arthur Reed Collum, Arthur Reid Collum, Jr., Ray Collum, Reid Collum, Collum Reid

Wanted For:

Interstate Flight-Murder; Armed Robbery

The Crime

The FBI is seeking Arthur Reid Collum for murder and armed robbery. Collum is wanted in connection with the brutal murder of a Tampa, FL, man on February 17, 1982. While robbing the victim's home, Collum allegedly shot the man four times with a .22-caliber revolver.

A Federal warrant was issued on March 29, 1982, at Tampa, FL, charging Collum with unlawful flight to avoid prosecution for the crimes of murder and armed robbery.

Description

Age	43, born September 27, 1942, Calera, AL.
Height	6'0".
Weight	195 to 210 pounds.
Build	Muscular.
Hair	Brown.
Eyes	Blue.
Complexion	Medium.
Race	White.
Nationality	American.
Occupations	Housepainter, truck driver.
Scars and Marks	Has two 4-inch scars on each side of his lower abdomen; Tattoos: multiple designs with "Death-Auto-Constipated-Can't Pass A Thing" and a picture of a panther on front of upper right thigh.
Remarks	May have dyed his hair gray.
Social Security Number Used	264-64-9727.
FBI No.	279 098 D.

Caution

A reported drug user, Collum has been convicted of larceny, assault and battery, interstate transportation of stolen property, and theft from interstate shipment. He should be considered armed and dangerous and be approached with extreme caution.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Classification Data

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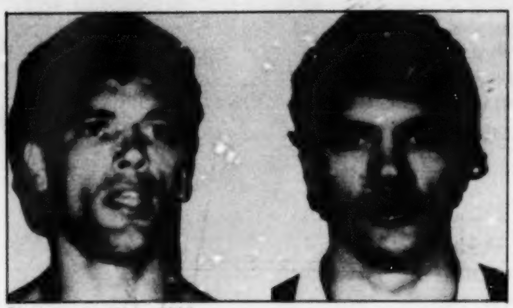

Photographs taken 1981

Because of the time factor in printing the FBI Law Enforcement Bulletin, *there is the possibility that this fugitive has already been apprehended. The nearest office of the FBI will have current information on this fugitive's status.*

Julio Alfonso Parias-Carbo

Julio Alfonso Parias-Carbo, also known as Julius Carbo, Julio DeParias-Carbo, Julio Edward DeParias-Carbo, Julio Parias-Carbo, Julio E. Deparias, Julio Edward DeParias, Julio DeParis, Julio Carbo DeParis, Julio Paris

Wanted for:

Hobbs Act—Extortion; Conspiracy

The Crime

Julio Alfonso Parias-Carbo is being sought in connection with the kidnaping and asphyxiation murder of a Miami, FL, man in August 1984.

A Federal warrant was issued on October 12, 1984, in Miami, FL.

Description

Age	27, born March 7, 1957 (not supported by birth records), March 7, 1958, Barranquilla, Colombia.
Height	5'6" to 6'.
Weight	170 to 195 pounds.
Build	Muscular.
Hair	Black.
Eyes	Brown.
Complexion	Medium.
Race	White.
Nationality	Colombian.
Occupations	Cab driver, student pilot.
Social Security Numbers Used	144-52-3906; 144-52-3096; 144-52-3909.
Remarks	He speaks and understands Spanish fluently. He is an avid weightlifter and bodybuilder who has competed in various local contests of this nature. He likes to frequent discos and night clubs catering to young singles.
FBI No.	94 069 M8.

Caution

Parias-Carbo, who is allegedly involved in narcotics trafficking, is being sought in connection with a kidnaping and subsequent brutal murder of the victim. He may be armed with a handgun and should be considered armed and extremely dangerous.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Classification Data:

NCIC Classification:

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Fingerprint Classification:

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Right thumbprint

WANTED BY THE FBI

Because of the time factor in printing the FBI Law Enforcement Bulletin, *there is the possibility that this fugitive has already been apprehended. The nearest office of the FBI will have current information on this fugitive's status.*

Richard Joseph Scutari

Richard Joseph Scutari, also known as Rick Black, Patrick Deberio, Patrick Dominic Deberrio, Josh Lewis, Steve J. Lewis, Richard O'Connor, Richard Scutari, "Black," "Mr. Black," "Stretch," and "Skoots," and others

Wanted For:

Interference with Commerce by Threats of Violence; Violating the Anti-Racketeering Laws; Conspiracy to Violate the Anti-Racketeering Laws; Transporting more than $5,000 in Stolen Money in Interstate Commerce; Storing and Concealing Approximately $40,000 in Stolen Money; and Harboring a Fugitive

The Crime

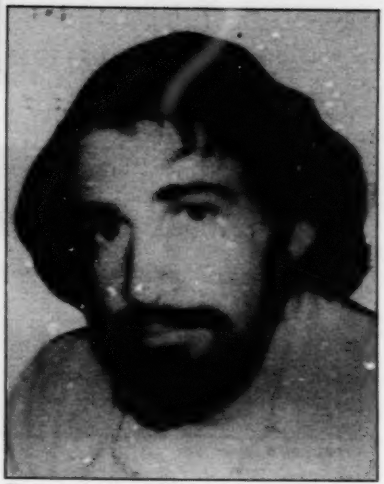
Scutari, a reported member of a violent terrorist group which advocates the assassination of government leaders, overthrow of the U.S. Government, and white supremacy, has been named to the FBI's list of "Ten Most Wanted Fugitives."

On July 19, 1984, Scutari allegedly participated in the robbery of an armored truck in Ukiah, CA, and reportedly stole $3.6 million. He is also being sought in connection with the interstate transportation of over $5,000 in stolen money and storing and concealing approximately $40,000 in stolen money.

Federal warrants for Scutari's arrest were issued on December 28, 1984, in San Francisco, CA, and on April 12, 1985, in Seattle, WA.

Description

Age	38, born April 30, 1947 (true date of birth), April 14, 1944, Port Jefferson, NY.
Height	5′11″.
Weight	180 pounds.
Build	Medium.
Hair	Brown.
Eyes	Brown.
Complexion	Medium.
Race	White.
Nationality	American.
Occupations	Bar owner, construction worker, diver, and karate instructor.
Scars and Marks	Has tattoo "U.S. Navy" on upper right arm.
Remarks	Has been known to wear a mustache and a beard in the past.
Social Security Numbers Used	263-68-5654 267-86-0855.
FBI No.	576 171 DA4.



Photograph taken 1984

Caution

Scutari, a former karate instructor, is reportedly armed with unlimited ammunition, weapons, and is known to use bulletproof vests. He has vowed not to be taken alive. Scutari is know to associate with members of the Order and the Aryan Nations movement. He may be accompanied by his wife, Michelle Antoinette Mari Scutari. They should be considered armed and extremely dangerous.

Notify the FBI

Any person having information which might assist in locating this fugitive is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Classification Data

NCIC Classification:

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Federal Bureau of
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Washington, DC 20535

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Title

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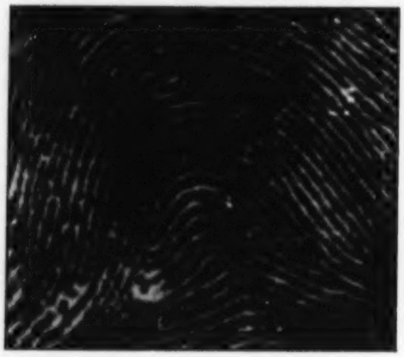

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The Bulletin Notes

On March 27, 1985, Patrolman Thomas Miller and Patrolman Ronald Jeffrey Turek, Blair Township Police Department, Duncansville, PA, attempted to arrest a subject who opened fire, wounding Officers Miller and Turek. Officer Turek succumbed to his wound, but Officer Miller was able to return the subject's fire and killed him. This prevented injury to other nearby officers and citizens. The Bulletin joins Patrolman Miller's chief in recognizing his heroic action.

Officer Miller

55/2

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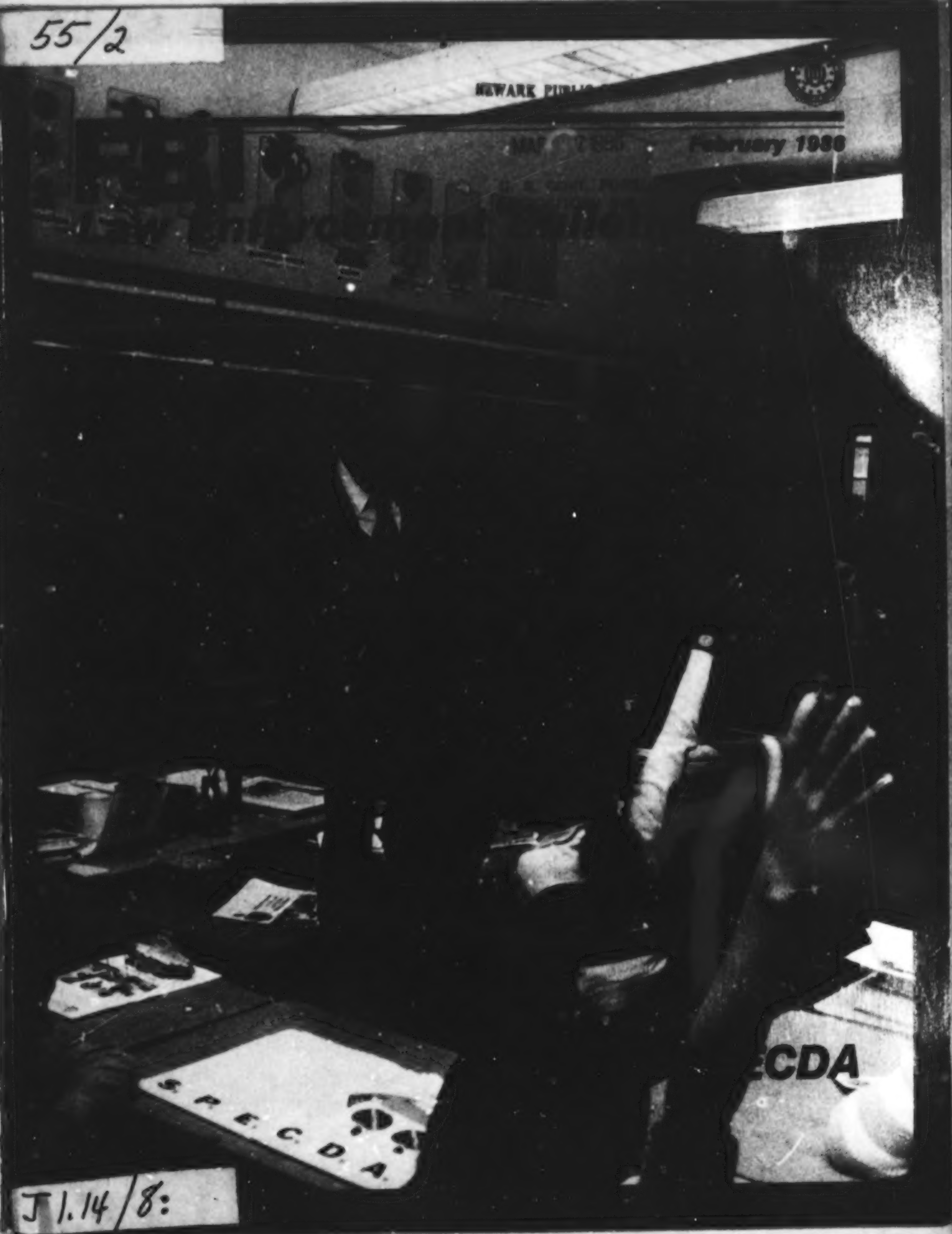
February 1986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FBI
Law Enforcement Bulletin

United States Department of Justice
Federal Bureau of Investigation
Washington, DC 20535

William H. Webster, Director

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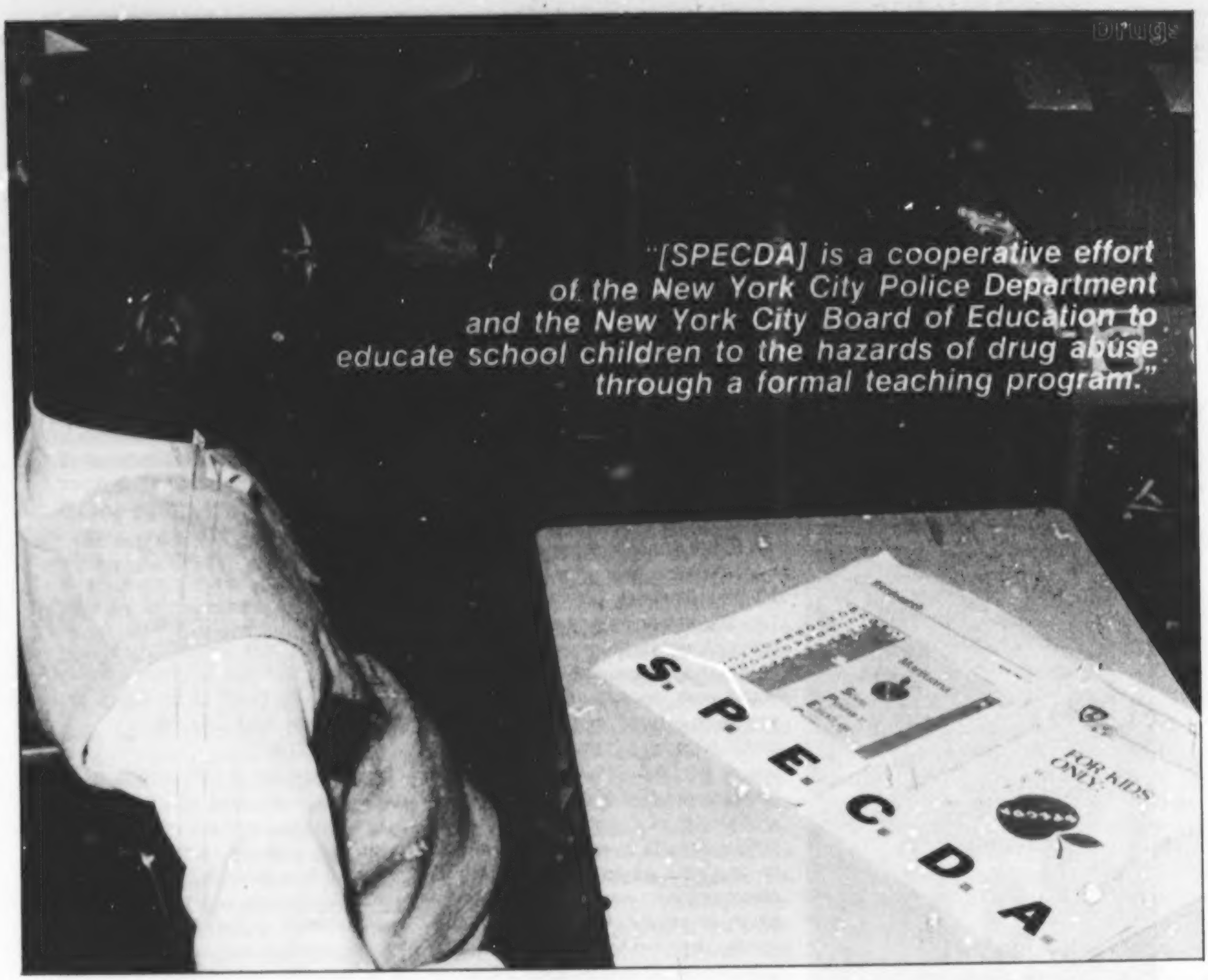


"[SPECDA] is a cooperative effort of the New York City Police Department and the New York City Board of Education to educate school children to the hazards of drug abuse through a formal teaching program."

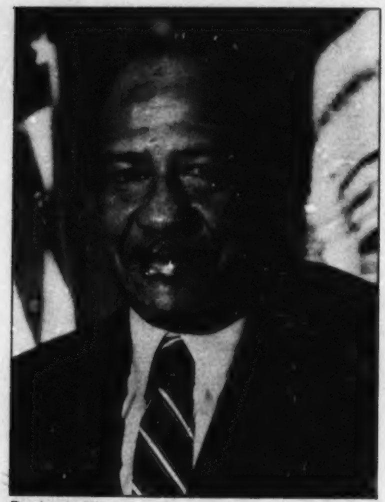
Operation SPECDA

School Program to Educate and Control Drug Abuse

By
WILHELMINA E. HOLLIDAY
Deputy Commissioner
Community Affairs
New York City Police Department
New York, NY

The New York City Police Department and Board of Education have jointly embarked on a program to reduce and/or eliminate the sale of drugs in the vicinity of New York City schools, while simultaneously providing school-age children with an awareness of the hazards of drug abuse. Code named Operation SPECDA (School Program to Educate and Control Drug Abuse), this program began on September 20, 1984. To attain its goal, SPECDA has a two-track approach. Track I, enforcement, involves arrests by the department's Narcotics Division, Organized Crime Control Bureau, for the illegal sale of drugs and the closure of so-called "smoke shops"[1] operating within a 2-block radius of New York City

Deputy Commissioner Holliday



Benjamin Ward
Commissioner

schools. Track II, education, is a cooperative effort of the New York City Police Department and the New York City Board of Education to educate school children to the hazards of drug abuse through a formal teaching program.

The educational track of Operation SPECDA began on February 4, 1985. The police department, in order to obtain the best possible police officer participants for the SPECDA educational program, sought volunteers from the Patrol Services Bureau. Of the 300 candidates applying for the program, 50 were ultimately selected.

The screening and selection process included background review, educational achievement, experience in youth work, appearance, communication skills, attitude, motivation, and sincerity. A conscious effort was made to ensure that the officers selected would be representative of the ethnic composition of the school system and the school districts in which they were to be assigned. As a result, 32 of the 50 officers chosen were either black, Hispanic, or female. Most of the officers reside within the City of New York and represent of all five boroughs. The educational background of the officers participating in the program ranges from Ph.D. and Masters candidates to holders of Masters and Baccalaureate degrees, with all having had at least some college education. In addition, some of the officers selected were born and raised in the school districts in which they are now teaching, and in some cases, attended the very same schools.

As designed by the police department and the board of education, the goals of the educational component of SPECDA are as follows:

1) To alter constructively the attitudes and perceptions of young people pertaining to drug abuse;
2) To increase student awareness of the effects and consequences of drug and substance abuse;
3) To build a foundation for a constructive, ongoing dialogue between police officers and young people; and
4) To expand a cooperative, educationally constructive working relationship between the New York City Board of Education and the New York City Police Department.

The overall goal of SPECDA is to reduce the likelihood of drug usage among the student population by focusing on younger students who are assumed less likely to be current drug users. Students in grades 5 and 6 were selected as the target population for this concentrated effort because it is at that age that children form their attitudes toward drugs and first come in contact with the conflicting pressures regarding drug abuse. The Elementary School Education Program, SPECDA's major thrust, helps children learn to resist the temptation to participate in drug activity.

The Elementary School Education Program lasts 16 weeks. All fifth and sixth grade students receive 16, 45-minute sessions, 8 sessions in the fifth grade and 8 in the sixth grade. The 16 sessions, covering 2 academic years, are taught by the same team consisting of a uniformed police officer and a board of education drug counselor. The program encompasses 7 of New York City's 32 school districts, using a total of 21 teams comprised of both males and females representing the city's ethnic diversity. While the actual instruction is given by the police/counselor team, the students' regular teacher is also present and is encouraged to participate actively.

Prior to entering the classroom, each team participated in 5 weeks of training. The training course presented by the police department and the board of education, specifically the Division of Curriculum and Development, strengthened the team-teaching concept and included such areas as classroom management and strategies, team leadership, lesson planning, and teaching techniques. The police department used the expertise of such units as the Narcotics Division, Organized Crime Control Bureau, Police Academy Instructional Development Unit, and the Advance Specialized Training Unit. Topics included narcotics identification, narcotics laws, methods of instruction, identifying child abuse, use of audio-visual equipment, and film presentations.

Although there are two separate curricula for fifth and sixth grades, the focus of each eight-session course remains the same. The areas covered during the course include an introduction of SPECDA (presents an overview of the SPECDA Program), self-awareness (develops in the students a sense of their identities and fosters a positive self-image), peer pressure (develops an understanding of peer pressure and its influence on their behavior), strategies for resisting peer pressure—developing positive decisionmaking strategies (helps students develop strategies for saying "NO"), drug use—pharmacology (presents information to students about drugs and the dangers of drug abuse), drug consequences (fosters a sense of individual and civic responsibility in students), leadership—positive alternatives (encourages students to develop behaviors and activities as alternatives to substance abuse), and culmination (a summary and evaluation of the program and presentation of awards).

After each lesson, a handout supporting that lesson is distributed to the students and classroom teacher (e.g., self-awareness booklet, peer pressure booklet, etc.). These handouts, developed by SPECDA personnel, were partially funded by the New York City Youth Board. At the conclusion of the 16 weeks, each student and classroom teacher will have a complete package of the SPECDA Educational Program. Moreover, a hard copy of the curriculum will be retained by school officials as a permanent library resource.

Teams make presentations 3 days a week in the fifth and sixth grades. On other days, a district assembly program is presented to grades kindergarten through four and in the junior high schools in each participating school district. In K–4, the 2-hour presentation provides an introduction to SPECDA, and on the junior high school level, the 2-hour presentation reinforces the SPECDA program.

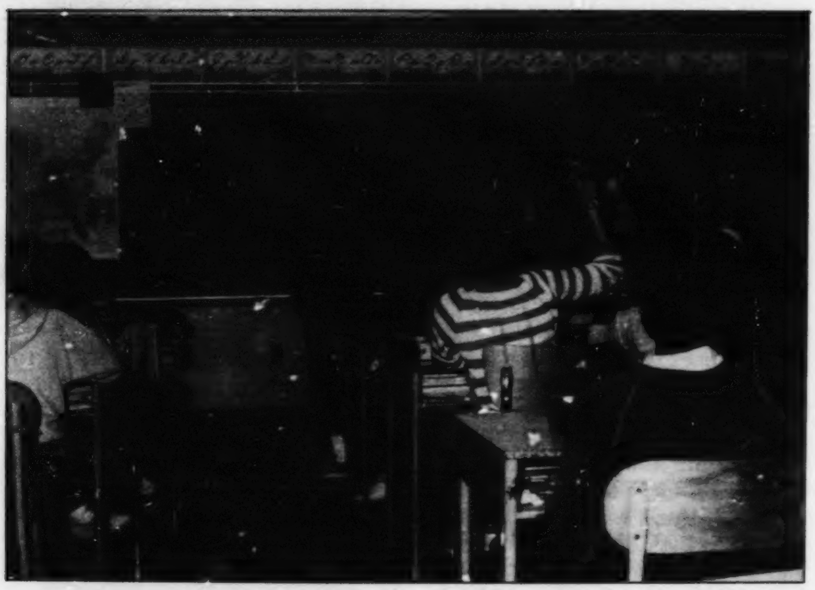
The Elementary School Education Program also recognizes the importance of parental involvement. To this end, SPECDA conducts an evening workshop program for parents, led by the same instructors who are involved with the students. The aim of these discussions is to provide parents with information about drug abuse, to inform them about the educational program presented to their children, and to elicit their help in reinforcing the SPECDA message.

A total of 154 schools in the 7 selected school districts are now participating in the program. Within these 154 schools, a total of 744 classes are being reached—70 classes are on the lower east side of Manhattan, 70 in Harlem, 190 in the Bronx, 126 in Queens, 67 in Bedford Stuyvesant, Brooklyn, 114 in Bay Ridge, Brooklyn, and 107 classes in Staten Island. Pursuant to this schedule, approximately 19,500 students will be exposed to the program during the current school year.

An additional component of SPECDA is an assembly program on the dangers of drug abuse, which is presented to students in the 25 school districts *not* receiving the 16-week lesson plan. The program is grade-specific, i.e., elementary, junior high, and high school students. Each level receives separate scenarios taught by specialized SPECDA teams. The "assembly teams" reach large groups of students on the topic of drug abuse, the difficulties in resisting peer pressure, and positive alternatives, via a multimedia presentation. These topics are presented through a speaker, films, and other educational materials.

Following the large assembly presentation, students are divided into small groups in order to give them the opportunity to explore the topics covered in detail. Where appropriate, students experiencing personal problems with drugs are referred to counseling and other social services. The SPECDA planners anticipate that during a school month, approximately *16* operational days, *15,000* students will be reached by the three levels of the assembly program.

> ***"... SPECDA will provide help and support to youngsters to assist them in resisting drug involvement."***



A qualitative and quantitative evaluation of the SPECDA Program was conducted by the Criminal Justice Center at John Jay College, funded by a private foundation. The evaluation, which included both pre- and post-test interviews of comparison and control groups, as well as classroom observations, was designed to determine the effectiveness of the elementary school educational program and the assembly educational program. In a brief statement regarding the findings, the evaluators said, "SPECDA appears to be a program delivered at the right time, in the right place, to the right people."

Although the focus of this article has been track II of SPECDA, the enforcement track, as of this date, has targeted 357 schools, covering all grade levels. A total of 6,229 arrests have been made, of which 57 percent were felonies, 38 percent misdemeanors, and 5 percent violations. Of the total number of arrests, 63 percent were made in the vicinity of elementary schools. The types of drugs most prevalent were marijuana and cocaine, respectively representing 40 percent and 33 percent of all arrests. Only 4 percent of those arrested were students, while 78 percent were over 20 years of age. An estimated $1.1 million (street value) of narcotics has been seized, U.S. currency totaling over $365,000 has been impounded, and over 80 firearms have been confiscated thus far. Furthermore, as of this writing, 91 arrests are being prosecuted under a new Federal statute (21 USC sec. 845A), mandating enhanced penalties for distributing controlled substances within 1,000 feet of elementary or secondary schools.

It is the hope of SPECDA's planners that the mix of law enforcement activity with innovative educational programs and the partnership between the police department and the board of education can reduce the susceptibility of young people to the scourge of drugs. The temptations of drug abuse are strong. Pressures on youngsters are great. However, through the comprehensive and concentrated efforts of these two agencies, SPECDA will provide help and support to youngsters to assist them in resisting drug involvement.

Footnote

The phrase "smoke shops" alludes to outwardly legitimate storefront businesses, such as candy stores or novelty shops, which covertly deal in the sale of controlled substances.

Evaluation
A Tool for Management

"Meeting the informational needs of the decisionmaker is of paramount importance and should be the goal of the evaluator."

By
RICHARD C. SONNICHSEN
Deputy Assistant Director
and
GUSTAVE A. SCHICK
Unit Chief
Inspection Division
Federal Bureau of Investigation
Washington, DC

How many times have you made a major policy decision wishing you had more or better information? Have you often wanted more time to study an issue before deciding on a course of action? Have you ever, in exasperation, believed your decisionmaking process could best be described as "muddling through"?[1] Are you sometimes skeptical of claims made by your managers citing the success of programs under their direction? This article will describe a technique to increase the amount and quality of information you need to better manage your resources, improve your decisionmaking process, and reduce the level of uncertainty in the management process.

Law enforcement functions in a complex environment. Policy decisions by managers are often subject to intense review and scrutiny, not only by those immediately affected within the organization but also by the public and media. Difficult decisions made on complex issues within short time frames often preclude indepth research. Policy making is never a clear cut process, seldom presents clear choices, and usually results in compromises among many options. Many times we "muddle through" the decisionmaking process with insufficient information. Information may be available to assist the decisionmaker but is not used because it is unavailable at the time or in an unusable form.

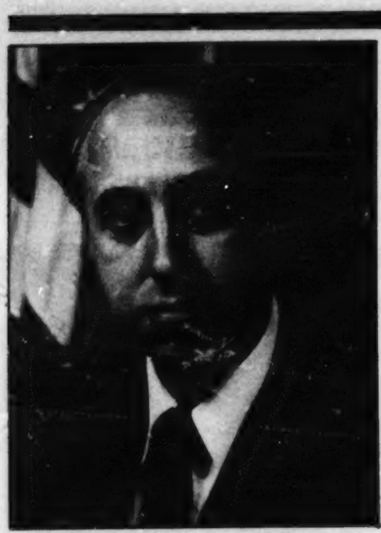
The effectiveness and productivity of important programs may go undetermined because of a lack of suitable measurement criteria. Programs implemented for a legitimate cause may be left unattended and become stagnant and ineffective or drift away from their original intent. Programs with merit sometimes never become effective because of faulty design or improper implementation. "Ideas in good currency" fail to even reach program status because they lie buried under layers of bureaucracy, unable to surface due to the lack of a suitable management mechanism for review.

Evaluation is the management technique that can help alleviate these problems and aid the decisionmaker. The thesis of this article is that the technique of program evaluation can assist managers and administrators in making better informed decisions and reduce uncertainty about programs by furnishing relevant, useful information in a timely fashion.

Program evaluation has been defined as the "application of systematic research methods to the assessment of program design, implementation and effectiveness."[2] Although this definition accurately describes the business of program evaluation, our view of evaluation is broader and places an evaluation staff in the role of an internal management consulting firm. In addition to evaluation activities, the skills and experience of an evaluation staff can be used in a variety of problem-solving situations and is a valuable resource for managers.[3]

The FBI Experience

Formal, structured evaluations in the FBI began in 1972 with the formation of the Office of Planning and Evaluation (OPE), with six Special Agents reporting to an Assistant Director. The purpose of the office at that time was to serve in an advisory capacity to the Director of the FBI, coordinate Bureauwide planning, promote research and development, evaluate plans and policy, and conduct surveys and studies.[4] Since that time, the size of the staff has fluctuated between 6



Deputy Assistant Director Sonnichsen

Special Agent Schick

and 14, with evaluators selected from the ranks of Special Agent investigators who are potential candidates for executive positions in the Bureau.

In our opinion, the advantages of an in-house evaluation staff outweigh the use of outside consultants for the FBI. Using experienced Special Agents as evaluators brings instant credibility when conducting interviews with other Agents. The Agent evaluator also has knowledge of the structure and administration of the FBI, and due to his varied experience, has a working knowledge of most of the investigative programs to be evaluated.

Evaluators in the FBI are used primarily in three different ways: (1) In a classic evaluation sense: reviewing major investigative programs on a 5-year cycle; (2) as policy analysts, studying topics selected by top management with a short response time; and (3) as management consultants, reviewing specific management problems to determine the most effective and efficient means to manage. The majority of projects chosen for evaluation or study originate from an annual survey of field executives; however, some studies are self-initiated by the staff where a problem has surfaced during other evaluation activities.

Although the FBI evaluation staff is organizationally located in the Inspection Division reporting to the Director, evaluation is distinct from the inspection function and should not be confused with it. While the usual purpose of an inspection is to check compliance and determine responsibility where deficiencies are encountered, evaluation has as its purpose program improvement. Successful evaluations are conducted in a spirit of cooperation with the program manager contributing input throughout the evaluation. Numerous studies have shown,[5] and our experience validates, that use of evaluation findings by affected decisionmakers is significantly dependent on cooperation during the evaluation process and the extent of involvement of the individual program manager.

Much of the available literature on evaluation refers to "evaluation research." The word "research," used in conjunction with evaluation, evokes a strong, negative reaction in the minds of many executives who fear they will be overwhelmed and intimidated by the material presented. Use of this terminology creates unnecessary impediments to the use of evaluation findings. Usefulness should be the major criteria for measuring evaluation findings. Meeting the informational needs of the decisionmaker is of paramount importance and should be the goal of the evaluator. The policy maker's questions should drive the evaluation process. It is the responsibility of the evaluator to produce information that is timely, relevant, and in a form easily understood by the user. Complex statistical analysis can be counterproductive and is seldom necessary.[6] A noted evaluation author, Michael Quinn Patton, has said, "I would rather have 'soft data' on important questions than 'hard data' on unimportant questions."[7]

Evaluation can be used to effect organizational change. Our experience has been that program change usually begins when an evaluation starts and is not dependent on the completion or issuance of a report. The analysis of programs and objectives can redefine and sharpen policy procedures, thereby creating a more effective and efficient organization. Monitoring program output makes information available on resource usage that can affect future manpower distribution patterns.

"... program evaluation can assist managers and administrators in making better informed decisions and reduce uncertainty about programs by furnishing relevant, useful information in a timely fashion."

Quantitative data from information systems can be illuminated with qualitative data gathered by experienced evaluators through indepth interviews of program managers and participants.

Establishing An Evaluation Staff

Before committing to the concept of evaluation as a management tool, you, as a law enforcement executive, should conduct a mini-evaluation of your own. You need to reflect on your style of management and leadership and the environment of your department to determine if this technique might be of assistance. Contemplating your own situation is critical before establishing an evaluation staff. To assist in making this decision, we have developed a nine-point diagnostic test to determine if an evaluation group could be of assistance.

1) Am I comfortable with the quality and quantity of information I have available to make major decisions?
2) Am I sufficiently knowledgeable of all major aspects of my department to make informed decisions?
3) Do I know if my policies and programs are being practiced or given lip service?
4) Are my programs efficient and effective and do I have a system for feedback on program performance?
5) Am I comfortable with the productivity levels of units under my command?
6) Do I have sufficient information available to me to judge comprehensively the performance of my subordinates?
7) Do I have a selection method for identifying potential top executives?
8) Is any part of my department responsible for organizational change or program improvements?
9) Is my managerial style such that I would solicit and use information from an evaluation group if I had one?

Asking yourself these questions should assist in defining the current state of organizational development in your department and force you to examine not only the organizational climate but your own management style. The questions are designed to establish a mental, schematic diagram of the information availability, flow, and usage in your organization.

An evaluation staff will divert some resources from other areas. The critical question then is cost effectiveness. Although difficult to measure, criteria can be established to determine the effectiveness of evaluation activities.

A few examples from our experience may help demonstrate the value of evaluation. A major philosophical shift in the FBI's approach to investigative activities occurred in the mid-1970's and was made possible by a staff of evaluators responding to a mandate from newly appointed FBI Director Clarence M. Kelley to examine the FBI's management structure and traditional approach to investigations. This multi-year project in OPE resulted in a resource management and utilization concept. It was aided by an information system which redirected limited Agent resources to the most significant criminal investigations.

An evaluation of the FBI's foreign language program determined its administration was divided among four divisions at FBI Headquarters. Recommendations to consolidate all functions under one division have increased the effectiveness and efficiency of the program. Evaluation of the methodology used to determine the training needs of our veteran investigators has improved that procedure. An evaluation of the management of FBI resident agencies (small offices outside of a headquarters city) recommended three options for managing these offices to maximize productivity and insure proper workload distribution. Recent evaluations of our property crimes, fugitive, and general government crimes investigative programs resulted in recommendations to increase the efficient use of available manpower. Automation of indices, Special Agent transfer policy, and procedures for conducting background investigations are examples of administrative evaluations we conduct.

The Evaluation Unit is structured to examine quickly policy issues of concern to top management, and a 30-day turnaround time on these studies is not uncommon. The evaluation staff was recently requested to analyze the staffing and organizational structure of one of the FBI's regional computer centers. Neither complex in design nor scientifically rigorous, these short studies nevertheless aid the decisionmaker by furnishing him timely, relevant data.

The value of the evaluation process does not rely solely on the conduct of the study and the issuance of a report. It has been our experience that the mere presence of the evaluators causes managers to re-evaluate their programs, and many times, issue their own recommendations for program improvement long before the completion of the evaluation.

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Organizing For Evaluation

Be clear on purpose—Before the first line is drawn on an organization chart and before the first personnel file is reviewed for candidates, the purpose of the staff you are about to form should be very clear in your mind. Evaluation staffs can be used effectively in a variety of ways—as personal emissaries of the chief, as independent auditors, as an internal consulting staff to aid in the development of programs, or in any of an endless number of variations on these themes. Additionally, some evaluation staffs complete their evaluation activities with a written and/or oral report of their findings and make no recommendations for improvement; others make recommendations based on their findings, while still others not only make recommendations but get actively involved in implementation. The correct mode is the one which fits best with your personal managerial style and philosophy. What is important is that the manner in which the evaluation staff will be used and the purpose to which it will be put are clear at the outset and made clear to the staff. While there may be legitimate political and bureaucratic reasons to use an evaluation staff to legitimize decisions which have already been made, such use will quickly become apparent to the staff and others and is not a sound way to attract and keep talented people.

Locate staff correctly—Once you have conceptualized the purpose of the evaluation staff, you must locate it correctly within the organizational structure. We have found that the fewer layers of bureaucracy between the evaluation unit and the chief executive officer, the better. The fewer information filters between the evaluators and the executive, the less distortion you will hear. We have also found that obtaining information is generally facilitated when the evaluation staff is perceived as operating with a direct mandate from the top. If you should choose to locate the evaluation unit further down in the organizational ladder, you should take steps to communicate personally and directly with the staff periodically in order to be aware of what they are doing and let them know of your concerns and support. An evaluation unit can be your eyes and ears, stay in close touch with them.

Staff well—The success or failure of your evaluation staff will depend to a large extent on the caliber of the people you choose. A good evaluator should have a broad range of experience and skills. He should be innovative and creative, critical and analytical, with a strong bias against "we've always done it that way" reasoning. He must be able to express himself well orally and in writing. Ideally, he should have an educational and/or professional background in management with a facility for using statistical and other quantitative techniques. Finally, he should be a sworn officer with sufficient time on the street to give him a thorough understanding of police work and credibility with fellow officers with whom he will have to interact. The evaluation staff in the FBI is comprised exclusively of Special Agents. While we occasionally sacrifice some technical expertise, we believe this is more than offset by the Agents' understanding of the nature of our work and the credibility these Agents have in the organization.

How many individuals are appropriate to staff your evaluation unit depends, of course, on the size of your department and the resources you have available. We believe a critical mass for an effective evaluation unit is probably three individuals; one or two people will not have the dynamic interaction which generates creative thought processes and innovative solutions to problems.

Choose appropriate subjects—Take care in choosing issues for your evaluation unit to review, particularly at the outset while the staff is still getting its legs. The primary criterion is that issues should be something you care about. Nothing will destroy the morale of an evaluation unit faster, and cost it more credibility, than being assigned meaningless tasks or assignments which everyone concerned knows have no solution. Avoid the temptation to duck a difficult issue by saying "we have that under study." You may wish eventually to have all functional areas of the department evaluated on a cyclical basis; however, at the outset, pick areas that are of primary concern and where you will feel comfortable implementing changes.

Tasking

Now that you have defined the evaluation unit's purpose, located it within the organization, staffed it, and chosen initial subjects for evaluation, you must inform the staff of what you expect and how you expect it to be accomplished.

Focus on utility—While the investigation of esoteric subjects and the pursuit of knowledge for knowledge's sake is attractive in an academic atmosphere, the focus of evaluation efforts should be on the usefulness of the information developed. You will find one of the primary complaints of the evaluator is "nobody *uses* our product." Minimize this frustration and capitalize on your valuable evaluation resources by encouraging your staff to bear in mind constantly the importance of developing information that is useful to you as a decisionmaker, not elegant research models and sophisticated analytic techniques.

Insist that your evaluation staff be objective, rigorous, and complete in their review of any set of activities, but do not demand that they always be "scientifically rigorous." While questions of causality and "replicability" are important to scientists, you are primarily interested in gaining objective information to improve your decisionmaking in an imperfect world. An exception to this would be in a situation where the basis for your decision may be challenged in court and you may be required to demonstrate the validity of the data. The development of hiring standards is an example of an area where you may wish to take pains to ensure the research is done in a scientifically supportable fashion.

Insist on time limits and clarity—Information is a perishable commodity, and the most accurate data analyzed in the most elegant fashion is useless if it arrives after a decision has already been made. We have found that without a sense of urgency from top management, evaluation projects can take an ever-increasing amount of time as new issues develop demanding further and further study. Set deadlines and insist they be met.

By the same token, evaluation results that lack clarity are not usuable to you as a decisionmaker, and in the worst case, can add to the confusion they are meant to reduce. Whether you choose oral briefings, written reports, or what we have found to be most effective, a combination of the two, demand that evaluation results be presented to you in a clear, jargon-free, and concise fashion.

Make recommendations—Some evaluators take the position that their responsibility stops with the presentation of findings. We have found that taking the extra step and making recommendations for action is worthwhile. The evaluator is usually more familiar with the details of a particular issue and is in a better position to craft a recommendation than the executive. Once approved by the executive, the recommendations take on the character of directives.

Keep in mind also that over the period of the evaluation, much information comes to the attention of the evaluator that never reaches the final report and opinions are formed that cannot always be documented in a rigorous way. Although many evaluators are reluctant to comment outside the scope of the report, don't hesitate to solicit their opinions for they may be of value to you.[8] An advocacy role supporting the recommendations in an evaluation does not compromise the evaluator, if the evaluation was conducted in an objective and unbiased manner.[9]

Follow up—Like other directives, some approved recommendations are implemented and some seem to fall through a crack. In the FBI, we contact the entity to whom the recommendations are directed 6 months following approval. We do sufficient review at that time to assure ourselves that the recommendation either has been implemented or over-riding circumstances have made it either impossible or counter-productive. Our studies are not closed until all approved recommendations have been brought to closure.

Evaluation Process

Certain features are common to most, if not all, evaluations, and you should have an idea what to expect from the process.[10]

Literature Review

The evaluation staff will familiarize itself with the subject matter under review and determine what research has already been done in the area. Typically, the review of available literature will include manuals, policy files, internal memoranda, a review of data from internal management information systems, and if applicable, academic research done in the area. The literature review will help define the scope and objectives of the evaluation and should assist the staff greatly in choosing an evaluation strategy.

Evaluation Plan

Following the literature review, the evaluator in charge of the study should develop an evaluation plan. We have found this to be a critical document, because it forces the evaluator to focus his thinking and reduce to paper exactly what he intends to accomplish and how he intends to accomplish it. The plan should contain, at a minimum, the purpose of the study, the scope, specific objectives that will be accomplished, a detailed statement of the methods by which various questions will be addressed, and a proposed time table with specific due dates for various phases of the project. This plan should be reviewed by the official requesting the study to ensure that his concerns are being addressed adequately.

Data Gathering

Once the study plan has been approved, the next phase is generally data gathering. In the FBI, this often includes field visits to a representative number of our 59 field divisions. Data gathering can take many forms, such as reviews of incident reports and case files, observation, interview, and questionnaires. If your staff is skilled, you should not have to be overly concerned with this phase of the project. You should, however, caution your staff that all data gathering, particularly interviews, should be conducted in an unbiased manner so as to convey the impression that the evaluation team has no ax to grind nor has made up its mind as to the outcome before the evaluation is complete.

Analysis and Report Writing

At the conclusion of the data gathering phase, you can expect the evaluation staff to consume about as much time as it took them to gather the data to analyze and report their findings. You should require a written report, supplemented if you wish by an oral briefing. If you have given your evaluation staff the mandate to make recommendations, we suggest the recommendations be set forth in a memorandum separate from the evaluation report. This will give you the flexibility to approve or not approve various recommendations without affecting the findings of the evaluation which are reflected in the report.

Conflict

One byproduct of many evaluations which you should expect is conflict. New ways of doing things, new ways of looking at information, and new ways of defining success can threaten people. A natural resistance to change may manifest itself in the rejection of the evaluation's findings by those whose area of responsibility has been evaluated. You will occasionally hear a host of counter arguments as to why proposed changes are not feasible. Kept within professional bounds, such conflict is healthy for it forces managers to articulate the reasons things are done the way they are and it can point out fallacies in the evaluation staff's reasoning and conclusions. Don't be afraid of conflict, manage it.

How To Tell If Its Working

The efficacy of an evaluation staff is, to a large degree, in the eye of the beholder. If you as chief executive and user of the product think the staff is producing the desired results, they probably are. Although this is a subjective criterion for success, it can be supplemented with quantifiable data. Recommendations approved and implemented and program improvements are two additional criteria that can be used in determining the success of an evaluation staff.

It can sometimes be difficult to demonstrate a cause-and-effect relationship between the work done by an evaluation staff and changes in operations. Very often, the change process begins as soon as the evaluators appear on the scene and begin asking questions. By the time the study is completed and the report written, a great many changes may have taken place, none of which will be attributed to the evaluators. It simply does not seem to be human nature for a manager to run into his chief's office and announce, "My narcotics operation was floundering, but those guys doing that evaluation really had some good ideas and things are a lot better now!" More likely you'll hear, "Well we had some problems but we knew all about them and were going ahead with our own solutions when that evaluation began." Does it matter who's right? Probably not. The important thing is that problems were uncovered and corrected. Who gets the public credit is really immaterial, frustrating to the evaluators, but immaterial.

What is material is that the product being produced, the findings and recommendations, is useful to your department. Utility is the primary criterion you should apply in evaluating the evaluation process. Look for work that is on point, recommendations that are feasible, and an attitude that fosters cooperative action.

Conclusion

The technique of evaluation can be a powerful tool for aiding managers in the decisionmaking process and determining organizational performance. In creating an evaluation staff, if you have done your work well and have brought together the right people, tasked them clearly and correctly, held them to high standards, and supported them, you will have given your department an added dimension for development, that of self-examination and critical review.

Footnotes

[1] Charles E. Lindblom, "The Science of 'Muddling Through,'" *Classics of Public Administration*, eds. Jay M. Shafritz and Albert C. Hyde (Oak Park, IL: Moore Publishing Co., Inc., 1978), pp. 202-213. Lindblom claims administrators are incapable of analyzing the vast amount of information relevant to a given situation.

[2] Elinor Chelimsky, ed., *Program Evaluation: Patterns and Directions* (Washington, DC: ASPA PAR Classics VI, 1985).

[3] For an examination of the role of the internal consultant, as well as the external consulting process, see Gordon Lippitt and Ronald Lippitt, *The Consulting Process in Action* (San Diego, CA: University Associates, Inc., 1978).

[4] From policy files maintained by the FBI's Office of Program Evaluations and Audits.

[5] Michael Quinn Patton, *Utilization-Focused Evaluations* (Beverly Hills, CA: Sage Publications, 1978) (Patton calls this the "personal factor"); Ray C. Oman and Stephan R. Chitwood, "Management Evaluation Studies, Factors Affecting the Acceptance of Recommendations," *Evaluation Review*, vol. 8, No. 3, June 1984, pp. 283-305; Judith A. Dawson and Joseph J. D'Amico, "Involving Program Staff in Evaluation Studies, A Strategy for Increasing Information Use and Enriching the Data Base," *Evaluation Review*, vol. 9, No. 2, April 1985, pp. 173-188; Karolynn Siegel and Peter Tuckel, "The Utilization of Evaluation Research," *Evaluation Review*, vol. 9, No. 3, June 1985, pp. 307-328.

[6] Martin Kotler, "Conducting Short-term Policy Evaluation Studies in the Real World," a paper presented at the Evaluation Research Society Conference in San Francisco, CA, October 1984.

[7] Michael Quinn Patton at an evaluation workshop conducted at the FBI Academy, Quantico, VA, 4/17-18/85.

[8] From an address by Hale Champion, Executive Dean, John F. Kennedy School of Government, Harvard University, to a joint meeting of The Evaluation Research Society and The Evaluation Network, October 11, 1984, San Francisco, CA.

[9] We frequently become involved in the policy-making process, upon completion of an evaluation, attending meeting, writing memoranda, preparing briefings, and advising line managers all in support of the findings and recommendations.

[10] Many of these features are more fully described in *Evaluation Basics, A Practitioner's Manual*, Jacqueline Kosecoff and Arlene Fink (Beverly Hills, CA: Sage Publications, 1982).

Training Doesn't Have To Be Expensive To Be Good

"Training ... especially in the law enforcement environment, is successful only when there is commitment, support, and imagination."

By
LT. JAMES M. BRADLEY
Police Department
White Plains, NY

Training, in any setting, but especially in the law enforcement environment, is successful only when there is commitment, support, and imagination. Department commitment, which says "how it will be done," not "can it be done," is necessary to ensure success. It eliminates doubts by its statement that training is an essential element of the department's management, not a luxury. With commitment will come support from operational and management personnel. There will be many trade-offs in the day-to-day operation of the department in order to facilitate training schedules, and support is needed to prevent the use of ready-made excuses for inefficient work.

Imagination is critical to a good training program in that it will aid in developing the type of environment that fosters communication and learning. It will also help with the problems and mistakes that will inevitably appear. Imaginative trainers and managers can create something positive out of any experience or incident that develops.

One component of training in the White Plains Police Department is a 40-hour inservice training program that is mandatory for all officers below the rank of captain. It is designed not only to provide information and increase proficiency but to enhance self-image and motivation. It is a signal to all officers of the department's perception of itself and its members. During the week that an officer is assigned to the classroom, he or she receives very clear indications of the type of performance that the department expects and rewards.

The inservice program that was recently completed in May 1985, was achieved without the use of overtime for participants and with only minimal accrued compensatory time for department instructors. This is an important issue for any department that desires an extensive program, but is limited by budgetary constraints. For a department such as White Plains, with 200 sworn personnel, overtime for this program would have been in excess of $111,000 for straight time and $167,000 plus if the rate was at time and a half. For most medium-sized police departments, this is a sufficiently serious constraint to cause the reduction or elimination of even the best training efforts.

How then is 8,000 manhours removed from the duty chart without the loss of efficiency or completely exhausting the overtime budget? It is possible, due in part to the department's commitment to training, as well as timely work analysis and creative scheduling. During the planning meetings where objectives, goals, and restraints are discussed and agreed to, it is understood that the commissioner of public safety and his top executive officers have established training as a priority item. At these sessions, the chief of police, administrative officer, and training officer develop options and alternatives that facilitate and protect the scheduling requirements of the program. Best case and worse case scenarios are outlined, and solutions developed in advance.

The input of the various division commanders is essential. They funnel through the administrative officer the results of ongoing analysis of divisional functioning, so that he may schedule officers from those assignments that are seasonal in activity levels, have off-peak hours, or can function temporarily with staff reduction. Although this may result in a minor temporary work backload, this negative effect is easily outdistanced by the departmentwide gain that results from this program.

Each week, approximately 15 officers are scheduled to attend inservice training. The administrative officer is careful not to draw an excessive amount from any one division, and each unit is contacted on a weekly basis to determine if there is any upcoming activity such as a major trial, special event, or large-scale investigation that might preclude scheduling unit members.

Lieutenant Bradley

John M. Dolce
Commissioner

All divisional and unit commanders are aware well in advance of the dates of the program and the fact that their staffs will be slightly reduced during that period. It is incumbent upon them to plan strategies for maintaining the productivity levels of their particular command. Since each area receives essentially the same relative percentage of staff reduction, and this figure remains constant, plans can be integrated in order to share staff when possible or dovetail certain responsibilities. The class that shows up each Monday contains a cross-section of every division and unit within those divisions. Therefore, no one area of the department is drastically affected. This minimizes the harmful effect that staff reductions might incur. It is also understood that the reductions are temporary and that the training each officer receives increases productivity. Most supervisory personnel realize that this small investment reaps great rewards.

The most difficult division to draw chart days for is patrol. Scrupulous care must be taken so as not to deplete this division to the point that an emergency could not be handled safely. This necessitates good planning and analysis to determine the minimum number of officers that must remain available. Flexibility in scheduling this division is assisted by the dichotomous nature of White Plains. There is a residential population of 50,000 and a daytime population which exceeds 250,000. Obviously, the staffing needs of the midnight tour vary drastically from the day tour and allow more flexibility in temporary transfers than other departments may enjoy.

Most patrol officers are taken off the late night tour in order to attend training programs, as analysis of the calls-for-service patterns indicates that fewer calls are received during this tour. Also, most fixed assignments, such as traffic enforcement duty or specialized posts which necessitate an absolute minimum staffing number, do not exist on the midnight tour, so there is more leeway on the amount of personnel needed. Scheduling officers assigned to the midnight tour for a daytime training program may also boost morale.

After clearing all logistic pitfalls associated with an inservice program, it would be a great disservice not to maximize this opportunity. The courses chosen must be stimulating, fresh, topical, and well-paced. It is a fair assumption that a majority of the participants have not had recent classroom experience, so courses should last no longer than 1 hour, whenever possible, to ensure consistent concentration levels for participant and instructor.

Several factors should be considered when selecting topics for instruction, such as participant interest, instructor capability, and the ability to schedule the class 15 weeks in succession. Officers enjoy these programs because they believe they are receiving some well-deserved attention, and choosing topics that are varied and imaginative supports that claim. Evaluations of past training programs have shown that members desire topics that help them to perform better and assist them in dealing with the problems that are ancillary to a police career.

Once topics are chosen, careful thought should be given to scheduling. Generally, the first part of the week is better for classes on issues dealing with work-related stress, changes in

Typical Class Composition

	DIVISION	ASSIGNMENT
Lieutenant	Patrol	Midnight-8 AM
Sergeant	Patrol	8 AM-4 PM
Detective	Detective	General Investigations
Detective	Detective	Street Crime Unit
Detective	Detective	Burglary Unit
Police Officer	Traffic	Mounted
Police Officer	Traffic	Motorcycle
Police Officer	Administration	Data Processing
Police Officer	Administration	Bureau of Criminal Ident.
Police Officer	Patrol	Midnight-8 AM
Police Officer	Patrol	Midnight-8 AM
Police Officer	Patrol	Midnight-8 AM
Police Officer	Patrol	8 AM-4 PM
Police Officer	Patrol	8 AM-4 PM
Police Officer	Patrol	4 PM-Midnight

the law, department policy, and information. This sets the tone by illustrating to the participants that this training program was developed with them in mind. It captures their attention and creates the proper learning environment. Mid-week instruction is well-served with topics on law, tactics, philosophy, concepts, and discussions. The final portion of the week is reserved for categories which are analytical, thought-provoking, or suggestive—in other words subjects which allow the participants to draw upon knowledge and information acquired earlier. Controversial topics should be addressed on the last day so as not to disturb the whole week if they are not resolved. Developing a manual consisting of a class schedule, course outline, and a list of reference and resource material is recommended, so that each class participant will be able to follow the instructors and will have a reference source once the program is completed.

An extremely critical element of this program is the instructors. Many large departments have full-time instructors on staff who have developed specific skills, as well as general teaching ability; however, this situation very rarely occurs in medium or small departments. Instructors selected from within the department, as well as outside sources, should submit outlines prior to the training and be interviewed so that there is agreement on course objectives and material. The training officer can assist with resources and research, as well as acquire any supplies or visual aids that are needed.

Experience has shown that use of professionals from outside the agency is worthwhile for all concerned. Most of the people contacted have welcomed the opportunity to address police officers, especially on an important subject of particular interest to them. In the past, members of the district attorney's office, local judges, attorneys, professors, and agency heads have been extremely helpful and informative. They are usually well-received by the officers as their presence signals community support for the enforcement task. The police officers appreciate a forum that allows face-to-face discussion with the developer of a program or a person who holds a critical position in the criminal justice system. Even when agreement does not exist, both parties appreciate the opportunity to meet and talk.

Scheduling outside speakers is sometimes difficult, considering a busy professional must be available for 15 consecutive weeks. For this reason, the program is usually better served if the outside speakers are given preference in choice of times. Normally, Monday and Friday are avoided as these are usually consumed by several 3-day weekends during the program's duration. As an insurance measure, outside instructors are requested to designate someone on their staff as an alternate if they are unavailable.

Department members chosen to make a class presentation are more enthusiastic if they are able to select a subject that is of interest to them. Unless the topic is a specialty in which no one else is well-versed, superior officers only are used as instructors. This provides a chance for the superiors to interact with the officers in a more informal setting and also prevents any unruliness that might possibly develop. Several months prior to the start of the program, inquiries are made of superior officers to determine which subject each has a particular desire to teach. In order to prevent the use of overtime for instructors, the schedule of classes was developed so as to allow superior officers working rotating shifts to switch tours. In order to facilitate these changes and minimize any loss of efficiency, only one officer from a squad was chosen as an instructor, whenever possible.

Although superior officers realize that training is a responsibility of rank, fatigue and boredom may still set in, especially in a 15-week program. Therefore, alternates were designated to provide relief or in the event assigned instructors were unavailable. Like any good management program, training must be able to function even in the manager's absence.

The review and evaluation phase is the time for the department to reap its first tangible benefit of the program. A forum should be constructed that elicits workable ideas and returns realistic appraisals. Ideas should be devel-

"An inservice training component, as part of a comprehensive training program, is a functional use of resources by management. . . . "

oped in a businesslike fashion, but the instructor should be ready to probe suggestions and encourage discussion when necessary.

At the conclusion of each week of the program, the participants were asked to complete a questionnaire that included several issues of interest to the members. They were asked to comment on equipment, uniforms, policy, and training, after receiving assurances that the results would be presented at a staff meeting for review. Realizing the opportunity to impact on their work environment, many officers delivered cogent, sincere recommendations that, when implemented, will undoubtedly increase efficiency and work comfort. In some cases, these recommendations centered around basic needs that are important to those at the level of execution but can be overlooked by others. These types of requests are usually very easily granted when brought to the department's attention, and we realized that all that was needed was an avenue to bring them forward.

The review and evaluation component is the appropriate place to inform members of the department's attitude on certain matters, as well as future plans, thereby preventing rumors and giving participants a sense of belonging. For example, during the past program, the department was in the designing phase of a new facility. Each Friday, the updated floor plans were shown to the various classes for their information and comments. This usually generated a great deal of excitement and spirited discussion about the future of the department, and several of these sessions provided ideas that were incorporated into the design of the building.

An inservice training component, as part of a comprehensive training program, is a functional use of resources by management that can ensure efficient service to the public. It can set the tone for the entire department and reinforce the symbiotic relationship between a police agency and its members.

Association Recognizes Exemplary Law Enforcement Effort

The Association of Former Agents of the U.S. Secret Service, Inc. (AFAUSSS) will again present an annual cash award (or donation to a charity of the honoree's choice) to a deserving law enforcement officer, alive or deceased, for exemplary performance in any aspect of law enforcement work.

Any sworn full-time officer below the rank of chief who is serving in a city, county, State, or Federal law enforcement agency in the United States is eligible for nomination. Exceptional achievement in any law enforcement endeavor, including but not limited to extraordinary valor, crime prevention, drug control and prevention, investigative work, traffic safety, juvenile programs, community relations, training programs, and innovative approaches to law enforcement, qualifies an individual for nomination. The act or incident for which the nomination is made must have occurred since July 1, 1985.

Law enforcement personnel may be nominated by any source, but must have the endorsement of the chief of police or agency head. Each nomination must also be accompanied by a brief statement of specific circumstances involving the distinguished law enforcement performance, supplemented by supporting documentation such as departmental citations, letters of commendation, newspaper clippings, or copies of reports.

The review and final selection of the winner will be announced at the annual conference in the fall of 1986. Letters of nomination should be mailed to:

Association of Former Agents
of the U.S. Secret Service, Inc.
P.O. Box 31073
Temple Hills, MD 20748

Nominations must be received no later than June 30,1986.

Reducing Airborne Lead Exposures in Indoor Firing Ranges

By
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"The problem of excessive human exposure to airborne lead, over and above the legal limit, persists to this day."

Health risks from lead exposures in indoor firing ranges are well-documented, particularly among range masters or instructors.[1] Major sources of lead exposure are lead bullets (from which airborne particles are released during firing) and primers containing lead styphnate (a highly explosive compound used to initiate the combustion of gunpowder in the cartridge).

Recent studies by researchers from the National Institute for Occupational Safety and Health (NIOSH) measured air lead levels in the breathing zones of 90 persons firing .38-caliber revolvers. When shooters were firing lead bullets, their mean lead exposure was 110 ug/m^3, calculated as an 8-hour time-weighted average (TWA). Forty-two (89 percent) of 47 exposures exceeded the Occupational Safety and Health Administration (OSHA) standard of 50 ug/m^3 (calculated as an 8-hour TWA) for occupational exposure to lead.[2]

Absorbed lead can damage the kidneys, peripheral and central nervous systems, and the blood-forming organs (bone marrow), Those affected may experience weakness, tiredness, irritability, digestive disturbances, high blood pressure, kidney damage, mental deficiency, or slowed reaction times. Chronic lead exposure is associated with infertility and with fetal damage in pregnant women. Because of the seriousness of these health effects, it is important to seek methods to control exposures. Such methods would include limiting the time a shooter or other person spends in the range, improving the range's ventilation, and using modified bullets.

Limiting the time a person spends in the range as an administrative control would be one of the most easily implemented measures to minimize exposure. When considering this type of control, it would be important to take into consideration that the range master or instructor is likely to have higher exposures because of the greater amount of time spent in the range. Administrative controls are best implemented when management provides written guidelines and procedures to be followed and enforces them. These may include periodic checks of the blood lead levels of the range master or instructor. Blood lead levels greater than 30 ug/deciliter would be reason for concern about exposures in the range and would indicate the need for more extensive monitoring and possible control measures.

Using ventilation design as a control measure is necessary, but somewhat more complex. In 1975, NIOSH developed criteria for the design and ventilation of indoor firing ranges.[3] However, they are difficult to implement, particularly as "retrofits" of existing ranges, and high-efficiency ventilation is costly to install and operate. Also, while the criteria, when implemented, were sufficient to result in lead exposures below the then-current standard of 200 ug/m^3, their ability to produce levels meeting the current standard (50 ug/m^3) is less certain.

Bullet modifications are another type of control. Substitution of a less toxic substance for a hazardous one has been found to be an efficient and effective primary preventive measure in occupational safety and health. Several laboratory studies have demonstrated reduced lead emissions when modified primers and bullets were used,[4] but the NIOSH researchers are the first to document the effectiveness of this substitution under actual firing range conditions.

The studies were conducted in municipal, State, and Federal Government firing ranges in Alabama, Georgia, Missouri, Nebraska, Ohio, Vermont, and Washington, DC,[5] and included air sampling conducted during actual qualification tests with

Figure 1

Comparison of the Concentrations of Airborne Lead in Personal Breathing Zones of Shooters Firing Various Types of Bullets—United States

Bullet Type	Number of Firing Ranges	Number of Air Samples	Mean Sampling Time (min)	Air Lead Levels (ug/m^3) Mean	Range	Mean 8-Hour Time-Weighted Average Exposure (ug/m^3)
Lead	6	47	25	3,000	ND*—33,000	110
Nylon-clad	2	10	29	794	400—1200	41
Zinc	4	22	36	150	ND—580	22
Copper-jacketed	3	11	20	300	ND—580	10

**None detected (below sampling and analytical limit of detection).*

5
5
6

> ***"The potential for exposure to airborne lead in indoor firing ranges needs to be addressed."***

.38-caliber revolvers. One of the variables under study was the use of ammunition with such bullet types as standard lead bullets, lead bullets completely encased in a nylon cladding, zinc bullets, and copper-jacketed lead bullets.

The personal (breathing-zone) air sample results from the NIOSH studies are summarized in figure 1. These samples were collected and analyzed by conventional methods.[6]

When nylon-clad, zinc, and copper-jacketed bullets were being fired, the mean exposures to airborne lead were 41, 22, and 10 ug/m^3, respectively, calculated as 8-hour TWAs. While these alternate types of ammunition were being fired, three (7 percent) of the 43 samples exceeded the OSHA lead standard. Thus, by using alternative types of bullets, personal exposures were decreased from over twice the OSHA standard (when using lead bullets) to 20 percent of the standard (when using the copper-jacketed bullets).

There are disadvantages to using alternate bullets that must be considered; they include the increased cost of clad or jacketed bullets (although this cost in the long run may be less than that of operating a high-efficiency ventilation system) and possible safety hazards caused by the propensity of zinc bullets to "bounce back" from the bullet traps in some ranges.

The potential for exposure to airborne lead in indoor firing ranges needs to be addressed. The following facts are important to keep in mind.

1) Lead poisoning, resulting from overexposure, is one of the oldest known occupational diseases.[7]

2) Lead poisoning can cause permanent damage to the kidneys and central nervous system.[8]

3) The OSHA regulation places a limit on allowable exposure to airborne lead.

4) There are an estimated 16,000–18,000 indoor firing ranges in the United States[9] and approximately 725,000, Federal, State, and local law enforcement officers.[10]

5) The problem of excessive human exposure to airborne lead, over and above the legal limit, persists to this day.

6) Through limiting the time a person spends in a firing range, improving ventilation, and making use of available bullet modifications, it is possible to greatly reduce airborne lead levels.

Footnotes

[1] J.B. Lucas and T.L. Anania, *Technical Assistance Report*—Orlando, FL, Report no. TA 73–22, NIOSH, Cincinnati, OH, 1973; P.J. Landrigan, et. al., "Chronic Lead Absorption—Result of Poor Ventilation in an Indoor Pistol Range," *Journal of the American Medical Association*, vol. 234, 1975, pp. 394–397.

[2] *OSHA Safety and Health Standards*, 29 CFR 1910. 1000, Occupational Safety and Health Administration, 1983 (revised).

[3] *Lead Exposure and Design for Indoor Firing Ranges*, DHEW (NIOSH) publication no. 76–130, National Institute for Occupational Safety and Health, Cincinnati, OH, 1975.

[4] *The Reduction of Airborne Lead in Indoor Firing Ranges by Using Modified Ammunition*, publication no. 480–26, National Bureau of Standards, Washington, DC, 1977; A. Fischbein, W.J. Nicholson, and I. Weisman, "Comparative Lead Emissions from Conventional and Jacketed Ammunition," *American Industrial Hygiene Association Journal*, vol. 41, 1980, pp. 525–527.

[5] *Health Hazard Evaluation and Technical Assistance Reports*, HETA 80-000-0011, HETA 80-079-0753, HETA 80-072-0755, HETA 81-010-0890, HETA 81-019-0846, HETA 81-470-1040, HETA 81-303-0947, HETA 82-380-1219, HETA 82-195-1200, National Institute for Occupational Safety and Health, Cincinnati, OH.

[6] *NIOSH Manual of Analytical Methods*, (2d ed.), DHEW (NIOSH) publication no. 77–157 A, National Institute for Occupational Safety and Health, Cincinnati, OH, 1977.

[7] *Part of the Human Condition: Health and Safety Hazards in the Workplace*, DHEW (NIOSH) publication no. 78–137, National Institute for Occupational Safety and Health, Cincinnati, OH, 1978.

[8] *NIOSH/OSHA Pocket Guide to Chemical Hazards*, DHHS (NIOSH) publication no. 78–210, National Institute for Occupational Safety and Health, Cincinnati, OH, 1981.

[9] National Institute for Occupational Safety and Health, unpublished data.

[10] "Justice Expenditure and Employment 1982," *Bureau of Justice Statistics Bulletin*, August 1985, p. 2.

Use of Police Auxiliary Officers in Crowd Control Situations

By
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For many years, volunteer law enforcement officers have provided valuable assistance to paid organizations through the donation of time, abilities, and on some occasions, through the ultimate contribution—death in the line of duty. Reserve organizations provide an important supplement to agency manpower in times of natural and manmade disasters, civil disorder, and activities which attract large numbers of people, such as concerts and sporting events. Most agencies would be hard-pressed to provide adequate coverage during these times and maintain the necessary field personnel to service a normal workload without an auxiliary force. While auxiliary forces composed of 1 or 2 citizens are the norm in small towns, major metropolitan areas may have units of 2,000 to 3,000 citizens.

A report by the National Advisory Commission on Criminal Justice and Goals states:

> "Every State and every police agency should consider employment of police reserve officers im-

Lieutenant Woodward

William M. Mingus
Chief of Police

> mediately to supplement the regular force of sworn personnel and increase community involvement in local police service."[1]

Further, the report continues:

> "Every police agency that has identified a specific need to augment its regular force of sworn personnel to alleviate manpower shortages or to cope with unique deployment problems should immediately establish a police reserve program."[2]

The Mobile Police Department has a total authorized sworn strength of 323 officers and a police reserve unit which presently consists of 90 members, including 10 female reserve officers. The police reserve was created by the Board of Commissioners of the City of Mobile in February 1962, through enabling ordinances which provide the following:

1) Appointment of resident citizens over 21 years of age to the police reserve with the rank of reserve police officer. The appointment is made by the chief of police after an applicant undergoes a background check equal to that conducted on a prospective paid police officer.
2) Reserve police officers serve without compensation in any of the department's divisions and have full police powers when on duty as a reserve officer; and
3) The duties of reserve police officer include general patrol as well as service in time of civil disorder.

The Mobile Police Reserve provided 3,466 patrol hours and 2,644 hours of special duty in the first 5 months of 1985. This total of 6,110 hours of volunteer service represented a monetary saving to the city of approximately $91,650, with a 12-month projected savings of approximately $220,000. The fiscal savings alone justify the existence of a reserve force in departments of all sizes.

Beyond fiscal considerations, however, are the intangible benefits of community awareness and participation which aid in providing a more broadly based level of support for the law enforcement function. Within the community, every citizen who takes part in a police organization understands the risks and frustrations faced by paid officers in their daily activities. These citizens, in their regular occupations, provide a means to bolster the image and importance of local law enforcement.

The reserve program has also proven to be a valuable resource for hiring sworn officers. Approximately 18 percent of the department's total officer complement and 27 percent of the female officers entered into the regular ranks after serving in the reserves, creating an unusually strong bond between regular and reserve officers. For many, the reserve program offered an opportunity to determine whether law enforcement was a viable career choice for them.

Selection

Reserve officer applicants are required to meet the same personal qualifications as candidates for regular positions. Each must pass a criminal history screening, background check, and oral interview with the director and assistant director of the reserve program. Any applicant not qualified for

"[A reserve organization contributes] the intangible benefits of community awareness and participation which aid in providing a more broadly based level of support for the law enforcement function."

regular status is not accepted in a reserve capacity. Also, any felony conviction, misdemeanor involving force, crime of moral turpitude, or drug and DUI violation results in automatic disapproval of the application.

Training

The Mobile Police Reserve is under the administrative control of the captain of the training division, with the director of the reserve program being appointed by the chief of police from the academy staff. Police reserves receive a minimum of 92 hours of formal training at the Mobile Police Academy, one of seven State-certified training academies. The reserve curriculum includes State and municipal criminal codes, officer survival, search, seizure and laws of arrest, crowd control training, defensive tactics, accident investigation, report writing, civil liability, firearms training, patrol procedure, traffic direction and control, officer dress codes, homicide, robbery and sex crimes investigations, crime scene protection, juvenile offenses, cardiopulmonary resuscitation, and reserve organization.

All reserve officer candidates must pass a comprehensive written examination and qualify on the State-approved pistol course prior to being certified as eligible for full-duty status. Upon receiving all academic and firearms certifications, newly sworn reserve officers are permitted to work as the second officer in a uniform services division patrol car. The unit is not designated as a two-officer unit until a certified field training officer (FTO) has an opportunity to evaluate the new reserve officer under field conditions. Following a favorable FTO report, the new reserve officer is given full status and that unit becomes a two-officer unit.

Evaluation

Mobile police reserve officers must provide 24 hours of patrol time in a 3-month quarter, must not miss three consecutive meetings, unless excused, and must attend all special functions, unless excused. The director of reserves conducts a quarterly personnel performance review and may take disciplinary action ranging from probation to dismissal for unsatisfactory performance. Additionally, similar sanctions may be imposed for any violation of policies or procedures.

Crowd Control

The use of police reserves in crowd control situations requires careful consideration on the part of police administrators. Special attention must be given to the types of situations in which reserve officers are used. Homogeneous crowd situations which present a minimal possibility of conflict provide the ideal situation for reserve participation. Labor disputes, racial or religious confrontations, and activities which present a substantial likelihood of violence are situations where reserve officers would be subjected to unnecessary risks. Other important considerations relative to using reserve forces include:

—The reserve selection and evaluation process;

—The level of training provided reserves;

—The potential civil and vicarious liabilities;

—The importance of clearly defined lines of authority and adequate supervision; and

—The provision for proper equipment for each reserve officer.

The *selection* process should not stop with the initial appointment to reserve status. Careful consideration should be given when selecting reserve officers to participate in crowd control activities. Only those reserve officers who possess maturity, sound judgment, and the ability to remain calm under intense stress should be selected for crowd control functions, particularly in those situations where direct officer-citizen contact is probable.

An ongoing *evaluation* process focuses on the reserve officer's performance under stress conditions. Agencies which make use of reserve officers should give consideration to evaluating the new reserve within the guidelines of a program having established performance-based criteria, such as are found in a field training officer (FTO) program. Under these standardized evaluations, an agency has a better opportunity to discover those reserves who present potential problems and to deal with such individuals before the problem escalates.

Each reserve officer who is selected for crowd control duty should receive the maximum level of training. The *training* process should encompass the same curriculum as is provided to regular officers and should include psychological as well as tactical training. Particular emphasis must be given to the discipline and restraint required of crowd control units and to the absolute requirement of coordinated, appropriate actions. The State and local laws dealing with crowds, both lawful and unlawful, must be discussed at length, with special consideration given to the constitutional rights of participants.

Proficiency in crowd control tactics can be acquired only through repeated drill and practice. Cross-order drill and situational exercises provide excellent

"A disciplined, professional reserve force can provide any agency with a component whose value cannot be measured in monetary terms alone."

opportunities to develop the coordinated response which is expected of personnel assigned crowd control duties and to instill the discipline necessary for a successful operation.

Agencies which decide to employ reserve officers in crowd control functions must establish clear procedural and policy guidelines which apply to all personnel involved. Complaints concerning tactics used in crowd control situations should receive the same impartial internal investigation as daily procedural violations, regardless of whether the complaint involves regular or reserve officers. If violations of policy or procedure are discovered, appropriate disciplinary action and/or criminal prosecutions must be undertaken.

An agency's potential *civil liability* can be minimized through appropriate policies, procedures, selection, training, and supervision of reserve officers. All personnel, regular and reserve, must clearly understand his or her duties and responsibilities in crowd control activities and must respond in an appropriate manner when faced with extraordinary situations. Administrators must use care when selecting individuals for crowd control assignments.

The assignment of reserve officers to a crowd control function requires an increased effort on the part of *supervisors* and places unique demands on those assigned supervisory duties. Many reserve officers lack the practical experience in day-to-day public contact which regular officers acquire. Thus, when a reserve officer is confronted with a situation which might be considered routine by an experienced regular officer, there is a tendency for the reserve officer to over or under react. This possibility can be anticipated, and with proper preplanning, be lessened in effect. Whenever reserve officers participate in crowd control activities, there is a necessarily smaller span of control for supervisors. The smaller span of control does not imply the need for additional personnel and supervisory rank, however. Many agencies have developed an intermediate position, such as corporal or deputy sheriff II, and have established this position between entry-level personnel and line supervisors, such as sergeants. Using intermediate-level personnel in a supervisory capacity maintains an appropriate span of control, and as a secondary benefit, provides the agency with the opportunity to identify and develop those personnel who would be suitable for line supervisory positions.

Reserve officers who are permitted to participate in crowd control activities should be provided with the same *equipment* as is available to regular officers. The psychology of crowd control demands that all officers be immediately identifiable and similar in uniform. Each officer should be issued, if possible, the following basic equipment:

—Departmental jacket with appropriate insignia;

—Boots, preferably plain-toe, lace-up, 10-inch leather or nylon, to provide proper ankle support;

—Ballistic helmet which meets all applicable government standards (use of military steel helmets or helmet liners should be avoided);

—Ballistic vest with a rating of at threat level II-A; and

—Gas mask, such as the military M-12 or M-17A, as necessary.

When equipping a crowd control unit which has both regular and reserve officers, care should be taken to insure uniformity. An overly military or "SWAT" look is to be avoided. Careful planning must be employed to avert the creation of a negative perception by members of the community. The appearance which is most desirable is one which projects an air of competent professionalism.

Conclusion

Many advantages can be identified in connection with the use of reserve officers in controlling crowds. Most agencies operate with too few personnel to meet routine needs. The presence of auxiliary forces allows regular personnel to be deployed in a main-line crowd control function, while the auxiliaries provide support services such as traffic control. Further, reserve officers can be assigned to supplement regular officers in a line capacity, provided the considerations previously discussed are met. A disciplined, professional reserve force can provide any agency with a component whose value cannot be measured in monetary terms alone. The reserve law enforcement officer is to his or her community what the military reservist is to our Nation.

Footnotes

[1] The National Advisory Commission on Criminal Justice Standards and Goals, *Report on Police*, Standard 10.2, p. 263.

[2] Ibid.

Interrogation

Post Miranda *Refinements*

(Part I)

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

The Supreme Court's 1966 landmark decision in *Miranda* v. *Arizona*[1] dramatically changed the manner in which most interrogations of suspects are conducted and may have even contributed to a broader change in law enforcement by forcing an increased respect for a suspect's constitutional protections.[2] In *Miranda* v. *Arizona*, the Supreme Court created a set of safeguards designed to protect a suspect's fifth amendment privilege against self-incrimination.[3] The now familiar warnings that an accused has the right to remain silent, that anything said can be used against an accused in court, that the accused has the right to the presence of an attorney, and that if the accused cannot afford an attorney one will be appointed for him prior to any questioning if the accused so desires[4] are prerequisites in any custodial interrogation. In fact, *Miranda* warnings are so well-entrenched in law enforcement practice and in the eyes of the courts that one court has remarked that "[it] is nigh onto superfluous to remind that *Miranda* forbids interrogation unless prefaced by a list of cautions."[5]

Yet, it is important to remember that the protections outlined in the *Miranda* decision apply only to custodial interrogations.[6] If custody and interrogation do not both exist simultaneously, no warnings need legally be given to a person who is the subject of police questioning. The *Miranda* decision defined the term "custodial interrogation" as follows:

> "By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in a significant way."[7]

Many cases since *Miranda*, both in the Supreme Court and in the lower courts, have further refined the meaning of custodial interrogation and established a framework for its use. It is the purpose of this article to examine a number of those cases in an attempt to provide some measure of guidance concerning the second prong of the *Miranda* trigger—interrogation.[8]

Interrogation Constrained

There are two circumstances in which it is crucial to understand the legal implications of interrogating an accused. The first is the more obvious and the one raised by the facts of *Miranda* itself. Ernesto Miranda was arrested at his home on March 13, 1963, and taken to the Phoenix, AZ. police station where he was identified by the complaining witness at a lineup. Thereafter, he was taken to an interrogation room in the detective bureau and questioned by two police officers.

Special Agent Higginbotham

Two hours later, Miranda had provided a voluntary written confession. Though Miranda was never told by the officers that he could consult with an attorney before and during questioning if he desired, neither did he request to do so.[9] Nonetheless, the Supreme Court ruled Miranda's confession inadmissible and ordered his conviction overturned because Miranda, while in custody, had been interrogated before he was fully warned of his fifth amendment protections and waived those rights. In doing so, the Supreme Court established the rule that interrogation of a person in custody cannot begin until the fifth amendment warnings have been given and a valid waiver of those rights obtained.[10]

The second circumstance in which it is important to understand the legal ramifications of interrogation was alluded to in *Miranda:*

> "If, however, he indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking there can be no questioning. Likewise, if the individual is alone and indicates in any manner that he does not wish to be interrogated, the police may not question him."[11]

Thus, the Court established a second rule that interrogation was not permitted once an individual had invoked his right to silence or right to counsel.

In prohibiting interrogation after an invocation of rights, the Supreme Court in *Miranda,* however, did not address whether interrogation could resume, and if so, at what point. Those issues were resolved, however, in two subsequent cases. In 1975, the Supreme Court decided the case of *Michigan* v. *Mosley.*[12] There, Richard Mosley was arrested in the early afternoon of April 8, 1971, in connection with two recent robberies. Following his arrest, Mosley was taken to a Detroit Police Department stationhouse and advised of his *Miranda* rights. When Mosley said he did not want to answer any questions about the robberies, all interrogation was properly ceased, and Mosley was lodged in jail. At approximately 6:00 p.m. that same evening, a second detective sought to talk with Mosley, not about the robberies, but about a murder in which Mosley was a suspect. Mosley, prior to any questioning regarding the murder, was advised of his *Miranda* rights by the detective, waived those rights, and agreed to answer the detective's questions. During the course of an interrogation, which lasted only about 15 minutes, Mosley gave a statement implicating himself in the murder. At no time during the second interrogation did Mosley request to remain silent or indicate that he desired to consult with an attorney.

In the appeal of his first-degree murder conviction, Mosley argued that his initial invocation of his right to remain silent absolutely forbid any subsequent interrogation by police. The Supreme Court rejected the argument, refusing to establish a "*per se* proscription" on a subsequent interrogation.[13] However, the Court did establish the rules to be followed before a subsequent interrogation, after an initial invocation of the right to remain silent.[14] The Court refined the rule prohibiting interrogation after an invocation of the right to silence holding that when an accused invokes his right to remain silent, all interrogation must cease and may not begin again until the passage of a significant period of time and until fresh warnings have been given and a valid waiver obtained.

"... when an accused invokes his right to remain silent, all interrogation must cease and may not begin again until the passage of a significant period of time and until fresh warnings have been given and a valid waiver obtained."

A case of similar import was decided by the Supreme Court in 1981. In *Edwards* v. *Arizona*,[15] the defendant was arrested pursuant to a warrant charging him with robbery, burglary, and first-degree murder. During an interrogation, following a legally sufficient warning and waiver of *Miranda* rights, Edwards gave only an exculpatory statement, presenting an alibi. He then sought to "make a deal."[16] After being told by the interrogating officer that he did not have the authority to make a deal, Edwards was provided with the prosecutor's telephone number and allowed to place a call. He made the call, but hung up after a few moments and said, "I want an attorney before making a deal."[17] At that point, all attempts to interrogate Edwards stopped, and Edwards was housed in the county jail.

The next morning two different officers had Edwards brought from his cell to an interrogation room. After they advised him of his *Miranda* rights, Edwards stated he was willing to talk but desired first to listen to the taped statement of an alleged accomplice who had earlier implicated Edwards in the crime. After listening for several minutes, Edwards provided a statement implicating himself in the crime. Following his conviction at trial, during which his confession was received in evidence, Edwards appealed. He claimed that his request to consult with a lawyer during his initial interrogation made inadmissible the confession which he had voluntarily provided during his second interrogation.

The issue before the Supreme Court in *Edwards* v. *Arizona* was similar to that in *Michigan* v. *Mosley*. Both concerned a subsequent interrogation following an invocation of rights. However, the Court did not follow the same rules they had established in *Mosley*. Rather, the Court ruled that an invocation of the right to counsel necessitates more restrictive rules than for invocation of the right to remain silent. The Court stated:

> "We further hold that an accused, such as Edwards, having expressed his desire to deal with the police only through counsel, is not subject to further interrogation by authorities until counsel has been made available to him, unless the accused himself initiates further communication, exchanges or conversations with the police."[18]

In *Edwards*, the Court imposed a "rigid rule that an accused's request for an attorney is *per se* an invocation of his Fifth Amendment rights, requiring that all interrogation cease."[19] It prohibits the resumption of interrogation until such time as either counsel has been made available to the defendant or the defendant himself has sought to talk with investigators.[20]

Commencing with *Miranda*, and following in *Mosley* and *Edwards*, the Supreme Court has made clear that custodial interrogation is prohibited in essentially two instances. First, custodial interrogation of an accused may not begin before *Miranda* rights are given and a valid waiver obtained; and second, after a person has invoked his right to remain silent or to consult with an attorney, interrogation must cease and may be resumed only under certain conditions. What then is interrogation?

Interrogation Defined

Though the *Miranda* rule was announced in 1966, it was not until 1980 in *Rhode Island* v. *Innis* that the Supreme Court agreed to "address for the first time the meaning of 'interrogation' under *Miranda* v. *Arizona*."[21]

On January 12, 1975, a Providence, RI, taxi driver was reported missing after being dispatched to pick up a customer. His body was discovered 4 days later in a shallow grave. He had died from a shotgun blast to the back of the head. On January 17, 1975, shortly after midnight, the Providence Police Department received a telephone call from another taxicab driver who reported that he had just been robbed by a man wielding a sawed-off shotgun. The taxi driver came to the police station to provide the police a statement. While there, he noticed a picture of his assailant on a bulletin board and notified the officers. An officer prepared a photo spread, and when the taxi driver again identified his assailant, police began a search of the area in which the driver said he left the assailant after the robbery.

At approximately 4:30 a.m., a patrolman cruising the area spotted Innis standing in the street, and upon recognizing him as the wanted robber, arrested him and immediately advised him of his *Miranda* rights. The arresting officer did not attempt to interrogate or converse with Innis except to respond to Innis' request for a cigarette. Several minutes later, a Providence police sergeant arrived at the scene and also advised Innis of his *Miranda* rights. Shortly thereafter, a

"... procedural safeguards of Miranda are not only mandated by direct custodial questioning but are also required to protect against various police practices which are tantamount to interrogation."

police captain who had also responded to the arrest scene approached and he, too, gave Innis his *Miranda* warnings. At that point, Innis said he understood his rights and wanted to speak with a lawyer.

Three officers were then directed to take Innis from the site of the arrest to the central police station. They were instructed not to question, intimidate, or coerce Innis in any way, and then departed. After driving less than a mile from the scene of the arrest, one officer began a conversation with another and commented that Innis had been arrested near a school for handicapped children and that one of those children might come across the sawed-off shotgun, which had not been located, and accidentally injure or kill themselves. Innis, who overheard that conversation, interrupted and told the officers he would lead them to the weapon.

The police car carrying Innis returned to the scene of the arrest where the captain advised Innis of his *Miranda* rights for a fourth time. Innis replied that he understood those rights but "wanted to get the gun out of the way because of the kids in the area in the school."[22] He then led the police to a nearby field where he pointed out the shotgun under some rocks by the side of the road. Innis was subsequently indicted and convicted of kidnaping, robbery, and murder. He unsuccessfully appealed his conviction through the State courts, and the Supreme Court agreed to hear the case to decide whether the dialogue between the officers transporting Innis to the police station constituted interrogation, and if so, whether it was impermissible after Innis had requested to talk with a lawyer.

In answering the question, the Court focused on the breadth and meaning of the passage from the *Miranda* decision which states, "By custodial interrogation, we mean *questioning* initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way."[23] The Court rejected a narrow reading of that passage, however, declining to find that "questioning" applies only "to those police practices that involve express questioning of a defendant while in custody."[24]

The Court explained that the procedural safeguards of *Miranda* are not only mandated by direct custodial questioning but are also required to protect against various police practices which are tantamount to interrogation. Though they do not take the form of direct questioning, those practices are equally or perhaps more effective in compelling an accused to talk or subjugating him to the will of the interrogator, "thereby undermin[ing] the privilege against compulsory self-incrimination."[25] Pointing to several police interrogation techniques discussed in *Miranda*, the Court in *Rhode Island* v. *Innis* said:

> "It is clear that these techniques of persuasion [staged lineups, reverse lineups, positing guilt, minimizing the moral seriousness of crime, and casting blame on the victim or society], no less than express questioning, were thought, in a custodial setting, to amount to interrogation."[26]

Accordingly, the *Innis* Court ruled:

> "... the *Miranda* safeguards come into play whenever a person in custody is subjected to either express questioning or its functional equivalent. That is to say, the term 'interrogation' under *Miranda* refers not only to express questioning, but also to any words or action on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect."[27]

This encompassing definition of interrogation might appear to cover nearly all police techniques and practices which precede an incriminating statement from a defendant. However, it is not so broad that it imposes a "but-for" test requiring the suppression of confessions merely because the police did or said something prior to the confession. *Innis* itself rejects such a broad reading. Clearly, but for the officers' conversation in the patrol car, Innis would not have made his statement nor led the officers to the gun. Yet in *Innis*, the Supreme Court found that the officers' conversation was "nothing more than a dialogue between the two officers to which no response from [Innis] was invited ... [T]he entire conversation appear[ed] to have consisted of no more than a few offhand remarks" and was neither a lengthy harangue nor a particularly evocative statement,[28] and did not, therefore, constitute interrogation.

Only a "practice that the police should know is reasonably likely to evoke an incriminating response from a suspect thus amounts to interrogation. But since the police surely cannot be held accountable for the unforeseeable results of their words or actions, the definition of interrogation can extend only to words or actions on the part of police officers that they *should have known* were reasonably likely to elicit an incriminating response."[29]

Many cases in the lower courts since Innis have focused on whether particular police words or conduct meet the test of direct questioning or its functional equivalent. An analysis of those cases reveals that they can be divided into four categories: 1) On-the-scene questioning, 2) questioning normally attendant to arrest and custody, 3) spoken words which are not express questioning but prompt in inculpatory statement from a defendant, and 4) nonverbal interrogation, i.e., police action which precedes an incriminating response. This article will now explore those areas and provide guidance to police interrogators as to when their actions might be considered interrogation or its functional equivalent, impermissible either before *Miranda* warnings are given and a waiver obtained or after there has been a invocation of rights but the requirements of *Mosley*[30] and *Edwards*[31] have not been met to permit a subsequent interrogation.

The remainder of this part of the article will discuss on-the-scene questioning and questioning normally attendant to arrest and custody. The concluding part will discuss the remaining categories, as well as the Supreme Court's recently announced public safety exception to the *Miranda* rule.

On-the-Scene Questioning

Perhaps out of a recognition of police practicalities, the Supreme Court in *Miranda* v *Arizona* stated that police officers who respond to a reported crime or incident and ask questions to determine basic facts about what has happened are not engaging in custodial interrogation. The Court held:

> "General on-the scene questioning as to the facts surrounding a crime or other general questioning of citizens in the fact-finding process is not affected by our holding."[32]

Other courts have applied that rule to a variety of factual situations. For example, in *United States* v. *Scalf*, [33] a prison inmate, Scalf, attacked and stabbed another inmate, then fled back into his cell. A prison guard approached Scalf's cell and asked him what had happened and where the weapon was. The prisoner responded by admitting that he had stabbed his fellow inmate and claiming that he had thrown the knives out a window. At a subsequent criminal trial, Scalf objected to the admission of those statements into evidence. He argued that he had been subjected to custodial interrogation without benefit of warnings or a waiver of his *Miranda* rights. The trial court overruled his objection, and the appellate court sustained the use of Scalf's statements against him. The court concluded that the questions had merely been an on-the-scene inquiry to ascertain the facts, identify the injured, and locate the weapons. The questions were general, regarding the facts of the crime in the course of the investigatory, fact-finding process, not ones which would reasonably elicit an incriminating response. They were not interrogation for purposes of *Miranda*.

Similarly, in *Pock* v. *Zimmerman*, [34] the court permitted use of the defendant's incriminating statements obtained shortly before his arrest near the crime scene. In this case, the defendant set fire to his own house and shot and killed a neighbor. When fire officials responded to extinguish the blaze at the defendant's house, he began shooting at them and killed the fire chief. The defendant fled the police, and when located nearby, still had his weapon. As police approached and attempted to persuade him to release his gun, the defendant said, "How many people did I kill, how many people are dead?"[35] In ruling that the defendant's incriminating statements were admissible, the court found *Miranda* inapplicable, since it "does not reach a situation such as the present one, where the statements were unsolicited, spontaneous and freely made prior to any attempted questioning."[36]

In contrast, a Federal trial court refused to admit an incriminating statement obtained at an arrest scene. In *United States* v. *Corbin*,[37] the defendant was arrested during a drug raid, and at her feet, was a .22-caliber revolver. The arresting agent asked her about the gun. The defendant replied that the gun was hers and had come from her purse. In suppressing that admission by the defendant, the court reasoned that the agent's question constituted custodial interrogation, since it was not a general inquiry regarding the crime but rather was one which sought a guilty response and should have been preceded by *Miranda* warnings and a waiver.

General on-the-scene inquiries are made many times each day by law enforcement officers throughout the Nation. So long as they are reasonably related to the facts surrounding a crime and are asked to provide the officer with basic and necessary information concerning the crime, but not one's guilt, they need not be preceded by *Miranda* warnings.

Questions Normally Attendant to Arrest and Custody

When the Supreme Court in *Rhode Island* v. *Innis* [38] provided the definition of interrogation, it recognized

"... routine booking questions which cause an arrestee to offer incriminating responses may be termed impermissible interrogation if asked with the intent to produce such an incriminating statement."

that certain types of administrative questions are a necessary part of police work, the answers to which are also necessary simply because a person has been arrested or incarcerated. The Supreme Court described such questions as "those normally attendant to arrest and custody."[39] The cases which have interpreted that phrase fall into three categories.

The first category is basic to law enforcement. As a matter of good police practices, certain general questions concerning an arrestee's personal history and background are asked whenever a person is arrested or incarcerated. The practice of "taking basic personal information (name, age, place of birth) [is] merely ... a ministeral duty incident to arrest and custody"[40] and does not constitute interrogation within the meaning of *Miranda's* custodial interrogation rule.

Even when this practice results in the acquisition of incriminating information, suppression is not mandated, since a guilty response was neither invited nor expected.[41] If an accused makes damaging statements in response to routine biographical questions, he is a victum of his own blunder. As one court stated, "To the extent that [an arrested person] gave incriminating responses, his answer merely exceeded the scope of the questions."[42]

A note of caution is in order, however. Even routine booking questions which cause an arrestee to offer incriminating responses may be termed impermissible interrogation if asked with the intent to produce such an incriminating statement. An example of this is *United States* v. *Webb.*[43] In *Webb*, a man had been arrested by military police and the FBI for murder. When advised of his *Miranda* rights, the defendant requested to speak with a lawyer. All questioning ceased, and the defendant was taken to the local jail to be lodged pending an appearance in court. At the jail, before relinquishing custody of the defendant, the FBI prepared paperwork necessary for the local jail to accept custody of the Federal prisoner. The paperwork, which clearly indicated that the defendant had been arrested for murder, was then given to the jailer. As the jailer began completion of his own paperwork, which included listing the charges for which the arrest was made, he turned to the defendant and asked him in what kind of trouble he was involved. In response, the defendant admitted to the murder.

In finding that the jailer's question was not "normally attendant to custody," the fifth circuit court of appeals was persuaded that the jailer already knew the charge underlying the defendant's arrest and in fact had the FBI's paperwork listing the crime in his possession at the time he asked the question. The court found that the jailer's question was interrogation, since the jailer knew or reasonably should have known that it would prompt an incriminating response.

The *Webb* case illustrates the limits of the "normally attendant to arrest and custody" line of cases. General background data and personal history are necessary to allow police to identify accurately or to apprehend the arrested person should he escape or fail to appear in court as scheduled. But should the questions extend beyond those purposes, they too become "interrogation" which may be proscribed by *Miranda, Mosley,* or *Edwards.*

Decisions in a second category of cases which find police questioning "normally attendant to arrest and custody" seem to hinge on the nature of the offense for which the person is arrested. One such case is *South Dakota* v. *Neville.*[44] Neville was stopped by police for a routine traffic violation—running a stop sign. However, when he got out of his car, he stumbled and staggered. Based on their observations of Neville, the police concluded he was driving while intoxicated and placed him under arrest. The police then informed him that he had a choice of submitting to a blood alcohol content (BAC) test or face automatic revocation of his driver's license. When told of the choice, Neville responded, "I'm too drunk, I won't pass the test."[45] Neville's response was viewed as a refusal to submit to a BAC test, and his license was revoked. Neville contested the revocation, claiming that the inquiry about whether he would submit to a BAC test was interrogation which should have been preceded by *Miranda* warnings. The Supreme Court disagreed, instead finding there was no interrogation for purposes of *Miranda*. The Court stated:

> "... police words or actions 'normally attendant to arrest and custody' do not constitute interrogration. The police inquiry here is highly regulated by state law, and is presented in virtually the same words to all suspects. It is similar to fingerprinting or photography."[46]

A similar result was reached in *Edwards* v. *Bray,* [47] but for a different reason. There, the defendant was stopped based on the suspicion that he was driving under the influence of

"... where it is the defendant [illegible] officer prior to [illegible] answers to the defendant's questions are not [illegible] purposes of Miranda."

alcohol. The officer asked a series of questions—whether the driver was injured or taking medication (to explain his erratic driving) and how much education the driver had (to determine what type of field sobriety test to administer). Finally, the officer asked the driver to recite the alphabet. When the driver failed to complete the test successfully, he was arrested. He appealed his conviction, claiming he was interrogated without benefit of *Miranda* warnings. The court refused to accept that argument and held that no interrogation took place, since the questions were not asked to elicit a testimonial response. The questions asked were intended only to evidence the driver's physical characteristics of intoxication, which are not protected under the fifth amendment at all.

A final case which illustrates "normally attendant to arrest" questions based on the type of crime is *United States* v. *Bennett.*[48] There, police responded to a call that the defendant had threatened persons at a bar with a rifle and had fired shots into a house. When the police located the defendant he was using a pay telephone at a convenience store. While police waited for the defendant to finish his phone call so that he could be questioned, the chief of police arrived on the scene and approached the defendant. In doing so he observed a rifle inside the defendant's car and announced, "There is a gun in the car."[49] The defendant, having hung up the telephone, admitted possessing the gun and was subsequently charged and convicted of being a felon unlawfully in possession of a firearm. His conviction was sustained on appeal over his objection that the police chief's statement was the equivalent of interrogation which took place before a *Miranda* warning was given and a waiver obtained. The appellate court said:

> "... we believe it clear that those words and actions, which are necessary and appropriate to inform fellow officers of a potential threat to their own safety and that of others during the course of an arrest or custody, are 'normally attendant.'"[50]

The *Neville*, *Bray*, and *Bennett* cases are representative of cases in which the offense for which an arrest is made controls whether the question asked is "normally attendant to arrest and custody." Clearly, in cases involving intoxicated drivers, standard questions relating to the testing for intoxication meet the test of "normally attendant." Similarly, in cases where weapons are involved in the offense, a warning concerning a safety threat posed by those weapons to arresting officers or others falls within the same classification.

The last category of cases in which questions fall under the "normally attendant to arrest and custody" banner are those where the police do no more than respond to the defendants' own questions. For example, in *United States* v. *Crisco*, [51] the defendant, upon his arrest, claimed he did not understand why he was being arrested because he had not done anything wrong. In response, one of the arresting officers, who had dealt with the defendant in an undercover role, said, "Hey, you met with me for the purpose of seeing $60,000.00 that I was going to use to buy a kilo of cocaine."[52] The defendant replied, "Well, I admit that."[53] In holding the officer's comment was not the equivalent of interrogation, the court ruled the officer was only providing the defendant information concerning the charge for which he was being arrested so that he could exercise his judgment as to what course of action to take. The court said:

> "... when an officer informs a defendant of circumstances which contribute to an intelligent exercise of his judgment, this information may be considered normally attendant to arrest and custody."[54]

The *Crisco* case also focused on that portion of the *Rhode Island* v. *Innis*,[55] which stated that interrogation must be judged primarily by the defendant's perceptions of the police conduct and concluded that where a defendant himself shows that he does not believe he should be arrested, it strongly suggests that he does not perceive himself to be the subject of interrogation.

Similarly, in *Kirkpatrick* v. *Blackburn*,[56] the defendant asked an officer what his co-defendant had been saying to police and was told that the co-defendant had been implicating the defendant. The officer also told the defendant he would be well-advised to protect himself. The defendant then implicated himself in the crime by making damaging admissions. The court found the officer's response was neither direct questioning nor its functional equivalent, since [s]uch a comment is no more likely to invoke a response on the part of a defendant than the conversation between the police officers in *Rhode Island* v. *Innis*."[57] In fact, in the eyes of this par-

"... where it is the defendant himself who asks questions of the officer prior to making an inculpatory response, comments or answers to the defendant's questions are not interrogation for purposes of Miranda."

ticular court, "[t]he standard for what is likely to elicit an involuntary response is rigorous."[58]

In sum, where it is the defendant himself who asks questions of the officer prior to making an inculpatory response, comments or answers to the defendant's questions are not interrogation for purposes of *Miranda*. "*Miranda* does not bar police from answering a suspect's question about a crime alleged, even after he has requested counsel."[59]

Footnotes

[1] 384 U.S. 436 (1966).

[2] *Miranda* has often been cited as the catalyst toward a more professional law enforcement community. *See, e.g., United States* v. *Segura,* 104 S. Ct. 3380, 3404 (1984) (J. Stevens, dissenting).

[3] U.S. Constitution, Amend. V provides in part: "No person shall be ... compelled in any criminal case to be a witness against himself."

[4] 384 U.S. 436, 479 (1966).

[5] *Henry* v. *Dees*. 658 F.2d 406, 410 (5th Cir. 1981).

[6] 384 U.S. 436, 444 (1966).

[7] *Id.*

[8] The courts have been equally active in refining the meaning of custody for purposes of *Miranda*. For a comprehensive discussion of those cases, *see,* Charles E. Riley, III, "Finetuning *Miranda* Policies," *FBI Law Enforcement Bulletin,* vol. 54, No. 1, January 1985, pp. 23–31.

[9] 384 U.S. 436, 491–92 (1966).

[10] The standard announced by the Supreme Court in *Miranda* v. *Arizona* requires the government to prove an accused made a knowing, intelligent, and voluntary waiver of his privilege against self-incrimination and his right to retained or appointed counsel. 384 U.S. 436, 475–6 (1966).

[11] 384 U.S. 436, 444–45 (1966).

[12] 423 U.S. 96 (1975).

[13] *Id.* at 102–03.

[14] In sum, *Mosley* held that a subsequent interrogation was permissible if the initial invocation had been "scrupulously honored," a significant period of time had elapsed between the interrogations, and prior to the subsequent interrogation, fresh *Miranda* rights are given and a waiver obtained. 423 U.S. at 106. For a more complete discussion of the issue of subsequent interrogations following an invocation of rights, *see*, Charles E. Riley, III, "Interrogation Following Assertion of Rights," *FBI Law Enforcement Bulletin,* vol. 53, Nos. 5 & 6, May–June 1984, pp. 24–31, pp. 26–31.

[15] 451 U.S. 477 (1981).

[16] *Id.* at 479.

[17] *Id.*

[18] 451 U.S. at 484–5.

[19] *Id.* at 485, quoting *Fare* v. *Michael C.*, 442 U.S. 707, 719 (1979).

[20] For a discussion of conduct which constitutes an initiation of an interrogation by a defendant, *see*, Charles E. Riley, III, "Interrogation Following Assertion of Rights," *FBI Law Enforcement Bulletin*, vol. 53, Nos. 5 & 6, May–June 1984, pp. 24–31, pp 26–31.

[21] *Rhode Island* v. *Innis*, 446 U.S. 291, 297 (1980).

[22] *Id.* at 295.

[23] *Supra* note 7, quoted in *Rhode Island* v. *Innis*, 446 U.S. at 298. (Emphasis from *Innis*).

[24] 446 U.S. at 298.

[25] 446 U.S. at 299.

[26] *Id.*

[27] 446 U.S. at 300–01.

[28] 446 U.S. at 302–03.

[29] 446 U.S. at 301–02.

[30] *Supra* note 12.

[31] *Supra* note 15.

[32] 384 U.S. 436, 477–78 (1966).

[33] 725 F.2d 1272 (10th Cir. 1984).

[34] 543 F.Supp. 179 (M.D. Penn. 1982).

[35] *Id.* at 190.

[36] *Id.* at 192.

[37] 494 F.Supp. 244 (M.D. N. Carolina 1980).

[38] *Supra* note 21.

[39] 446 U.S. at 301.

[40] *United States* v. *Morrow*, 731 F.2d 233, 237 (4th Cir.), *cert. denied,* 104 S.Ct. 2689 (1984).

[41] *United States* v. *Glen-Archila,* 677 F.2d 809 (11th Cir.), *cert. denied,* 459 U.S. 874 (1982); *United States* v. *Abell*, 586 F. Supp. 1414 (D. Maine 1984). *But see, United States* v. *Hinckley,* 525 F. Supp. 1342 (D.C. D.C. 1981), *aff'd* 672 F.2d 115 (D.C. Cir. 1982).

[42] *Robinson* v. *Percy*. 738 F.2d 214, 219 (7th Cir. 1984).

[43] 755 F.2d 382 (5th Cir. 1985).

[44] 103 S.Ct 916 (1983).

[45] *Id.* at 918.

[46] 103 S.Ct. 923, n. 15.

[47] 688 F.2d 91 (10th Cir. 1982).

[48] 626 F.2d 1309 (5th Cir. 1980), *cert. denied,* 449 U.S. 1092 (1981).

[49] *Id.*at 1310.

[50] 626 F.2d at 1313.

[51] 725 F.2d 1228 (9th Cir.), *cert. denied,* 104 S. Ct. 2360 (1984).

[52] *Id.* at 1230.

[53] *Id.*

[54] 725 F.2d at 1232.

[55] *Supra* note 21.

[56] 597 F.Supp. 1562 (E.D. Louisiana 1984), *rev'd on other grounds*, 777 F.2d 272 (5th Cir. 1985).

[57] *Id.* at 1577.

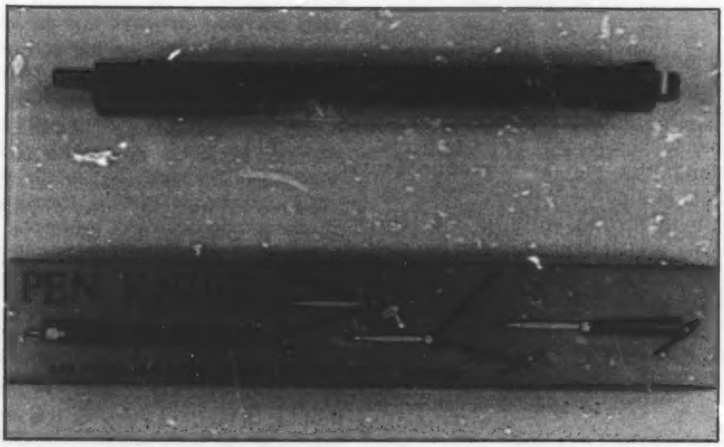
[58] *Id.*

[59] *United States* v. *Guido,*704 F.2d 675 (2d Cir. 1983).

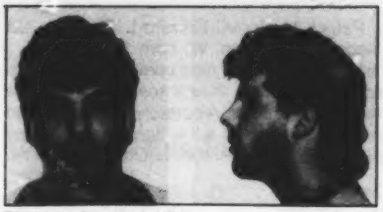
Pen Knife

The pen knife, which resembles a pen when closed, opens to disclose a stainless steel knife blade. Law enforcement personnel should be alert for this device, which is being sold on the open market at least in the Tampa Bay area of Florida.

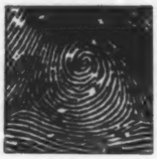
(Submitted by the Sheriff, Pasco County, FL)



WANTED BY THE FBI



Photographs taken 1984



Left index fingerprint

Brian Patrick Malverty,

also known as Brian Malverty, Brian P. Malverty, Bruce Malverty, Bryan Malverty, Bryan Patrick Malverty, "Oscar." W; born 6-3-59, New York, NY; 5′10″; 170-190 lbs; med bld; brn hair; brn eyes; med comp; occ-cook, student, waiter; remarks: known to wear an earring. Wanted by the FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:
17081221041PI132005

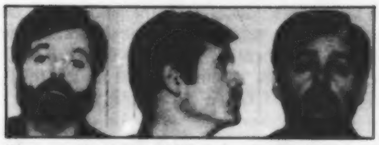
Fingerprint Classification:

$$\frac{17\ L\ 1\ U\ IOO\ 4}{M\ 3\ W\ IOO}\quad \text{Ref: }\frac{9}{3}$$

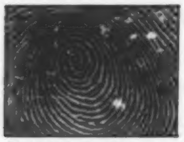
I.O. 4999
Social Security
Number Used 056-60-5131
FBI No. 394 376 P8

Caution

Malverty, a reported drug dealer, is being sought in connection with multiple murders in which the victims were bound, shot in the head, chest and back with a .25-caliber revolver. Subsequently, their bodies had been doused with gasoline and set afire. Malverty reportedly carries a semi-automatic pistol in the small of his back or in his coat pocket. Consider armed and extremely dangerous.



Photographs taken 1982 and retouched



Right thumbprint

David Jay Sterling,

also known as David Sterling, David J. Sterling. W; born 1-5-45, Vancouver, WA; 5′10″; 180 lbs; med bld; blk (graying) hair; brn eyes; fair comp; occ-building maintenance man, computer service engineer, electronic repairman, electrician, equipment repairman, fireman, legal assistant, pilot, former U.S. Marine; scars and marks: 3-inch scar on right thigh, 2-inch scar on lower left leg; remarks: may be wearing a beard and mustache. Diagnosed in the past as having a skin condition known as Tiena Versicolor and Dyshidrosis.
Wanted by FBI for INTERSTATE FLIGHT—ESCAPE, RAPE, ASSAULT.

NCIC Classification:
PO1818POCO23PM17CI18

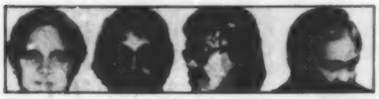
Fingerprint Classification:

$$\frac{18\ O\ 9\ U\ OOO}{L\ 24\ W\ MOI\ 18}\quad \text{Ref: }\frac{9\ 10\ 10}{23\ 23\ 24}$$

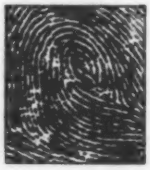
I.O. 4992
Social Security
Number Used 517-52-8709
FBI No. 246 301 H

Caution

Sterling is being sought as an escapee from a mental institution, where he was undergoing treatment as a sexual psychopath. Has been armed with a handgun and knife in the past. Should be considered armed and extremely dangerous.
FBI TOP TEN FUGITIVE



Photographs taken unknown, 1981 and 1984



Right little fingerprint

Donald Keith Williams,

also known as Anson Blake Judd, Thomas Slaughter, D.K. Williams, Don K. Williams, Donald Williams, Donald Deigh Keith Williams, Donald K. Williams. W; born 12-12-28, Lincoln, NE; 6′0″; 200 lbs; med bld; grey (balding) hair; blue eyes; med comp; occ-salesman; remarks: known to wear disguises; may wear beard and mustache, right eye has muscular infliction and may cause squinting; may be accompanied by his wife, Cheri A. Williams, who has a deformed right leg which causes a limp. CHERI WILLIAMS IS NOT WANTED BY LAW ENFORCEMENT AUTHORITIES. Wanted by FBI for BANK ROBBERY.

NCIC Classification:
PICI13PM18PMPOPOPM13

Fingerprint Classification:

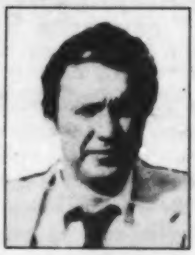
$$\frac{13\ I\ 31\ W\ IOM\ 18}{M\ 20\ W\ OOM}\quad \text{Ref: }\frac{31}{24}$$

I.O. 4990
Social Security
Number Used 492-26-8513
FBI No. 4 816 307

Caution

Williams has been armed with a .38-caliber revolver and has worn protective body armor and radio earpieces. Should be considered armed and dangerous.

WANTED BY THE FBI



Photograph taken 1985

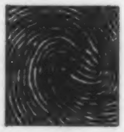
Edward Lee Howard,

also known as Patrick Brian, Patrick M. Brian, Patrick M. Bryan, Edward L. Houston, Ed Howard, James Rogers, Roger H. Shannon, Roger K. Shannon. W; born 10-27-51, Alamogordo, NM; 5'11" 165-180 lbs; med bld; brn hair; brn eyes; med comp; occ-economic analyst, former U.S. Government employee; scars and marks: 2-inch scar over right eye, scar on upper lip; remarks: knowledgeable in the use of firearms, reportedly speaks and understands Russian and Spanish fluently, trained in disguise and surveillanace techniques. Wanted by the FBI for ESPIONAGE, INTERSTATE FLIGHT—PROBATION VIOLATION.

NCIC Classification:
DO540719191108101419

Fingerprint Classification:
4 O 1 R IIO 19
S 17 U IIO

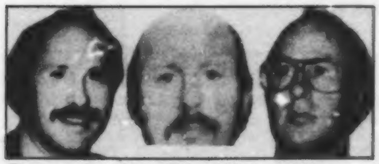
I.O. 4998
Social Security
Number Used 457-92-0226
FBI No. 720 744 CA2



Right thumbprint

Caution

Howard should be considered armed and dangerous and should be approached with caution inasmuch as he has been convicted of assault with a deadly weapon and is presently on supervised probation.



Photographs taken 1982, 1983, and 1984

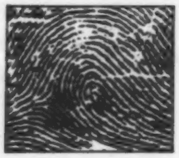
Terry Lee Conner,

also known as Robert Ballentine, Terry Conner, Terry Connor, Terry L. Connor, Richard Freeman, Ronald Richard Gilbert, Robert Williams. W; born 11-22- (true date of birth), 11-23-43; Evansville, IL; 6'1"; 190 lbs; med bld; brn(balding)hair; blue eyes; med comp; occ-laborer, restaurant owner, salesman; scars and marks: tattoo of "Terry" under devil on right upper arm; tattoo of a flower on right bicep; remarks: may wear glasses. Conner may be accompanied by Joseph William Dougherty, FBI Identification Order 4996, WHO IS ALSO WANTED BY LAW ENFORCEMENT AUTHORITIES. Wanted by FBI for BANK ROBBERY; ASSAULT ON A FEDERAL OFFICER; THEFT OF GOVERNMENT PROPERTY; ESCAPED FEDERAL PRISONER.

NCIC Classification:
08AAAA0202AAAAAAAATT

Fingerprint Classification:
8 1 Aa 2
1aA2at

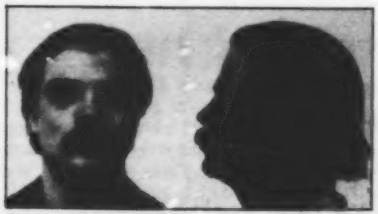
I.O. 4997
Social Security
Number Used 307-44-2358
FBI No. 451 169E



Right thumbprint

Caution

Conner, an escape from custody, is being sought for a series of bank robberies in which hostages were taken. He is reportedly armed with both handguns and automatic shoulder weapons. Should be considered armed and dangerous.



Photographs taken 1973

Jon Steven Heidinger,

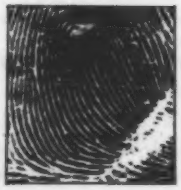
CAPTURED

also known as John Doyle, Jon Doyle, John S. Hechinger, John S. Heidinger, Jon S. Heidinger, Jon Stephen Heidinger, "Kraut." W; born 3-30-51, Vallejo, CA; 5[illegible] 200 [illegible]s; mus bld; brn hair; brn eyes; fair comp; occ-brickmason, carpenter, electri[illegible]; scars and marks: scar on abdomen, scar on left wrist; tattoos: "Harley Davidson" [illegible] left forearm; letters "LPDP" on inside of left forearm; star on left wrist; "1%" in [illegible] web of left hand; hooded skull with flame and the letters "PFF[illegible] and [illegible]PD[illegible] "PFEP" [illegible] the inside of right forearm, letters "Kpffp" and "LPDPK" on abdomen; [illegible]der [illegible] on right thigh; spider webs on both knee caps; 3 missing upper front teeth; remarks: is reportedly a heavy whiskey drinker. Wanted by the FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:
17PI172113151517[illegible]0

Fingerprint Classification:
17 [illegible] W [illegible]OO[illegible]3
M 1 U [illegible]

I.O. 5000
Social Security
Number Used 265-94-4515; 455-55-9603
FBI No. 666 635 H



Right middle fingerprint

Caution

Heidinger is being sought as an escapee from a Virginia State prison where he was serving a lengthy sentence for the aggravated murder of a woman who was maliciously stabbed 17 times in the chest. Heidinger has vowed not to be taken alive and should be considered armed and dangerous.

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Questionable Pattern

This impression represents an obstruction-type, central pocket loop whorl. To be classified as such, it is necessary that the obstruction be at a right angle to the line of flow. The line of flow is determined by an imaginary line between the inner delta and the center of the innermost recurving ridge. The pattern presented has an inner tracing. The obstruction-type, central pocket loop whorl appears infrequently, and the Identification Division automatically references this type pattern to a loop.

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The Bulletin Notes

Det. Sgt. Joseph A. San Juan of the Waterford, CT, Police Department was having lunch in October 1984, at a restaurant in New London when he saw another customer choking on some food. Sergeant San Juan applied the Heimlich maneuver and was able to dislodge the food. The customer, herself an ambulance emergency medical technician, credited Sergeant San Juan with saving her life. The Bulletin is pleased to join this officer's superiors in commending his lifesaving action.

Sergeant San Juan

55/3

FBI Law Enforcement Bulletin

March 1986

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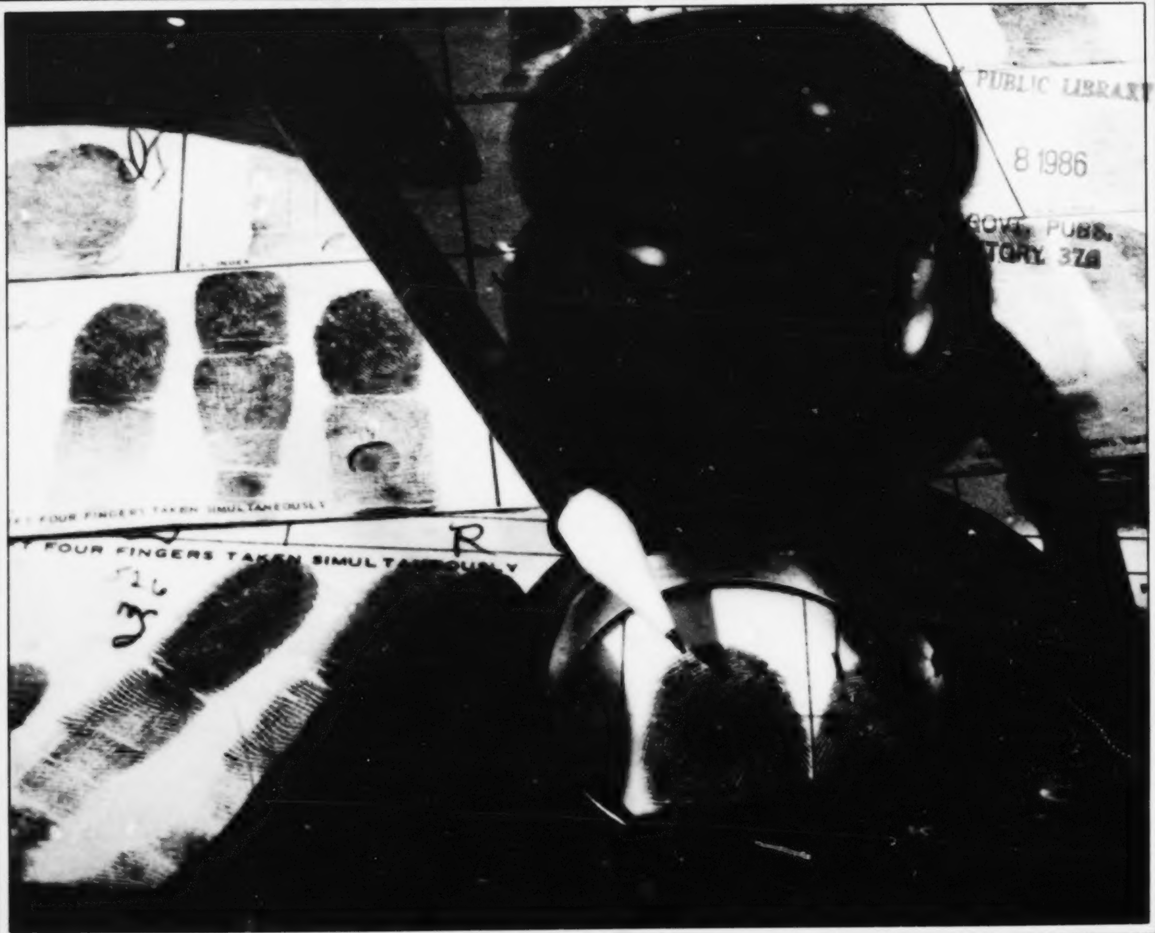
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Fingerprint Automation

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The FBI's research and development in automating fingerprint processes revolutionized the science of fingerprint identification. See article p. 2.

FBI
Law Enforcement Bulletin

United States Department of Justice
Federal Bureau of Investigation
Washington, DC 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 6, 1988.

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Director's Message

Law enforcement today is a profession. Like other professions, such as medicine or law, it is particularly dependent upon the quality of its people. Law enforcement, because it is a public service, must attract the best people available.

And we must attract large numbers of people because of our size. The Uniform Crime Reporting Program shows that there are 611,488 law enforcement professionals in this country among local, county, and State governments. When you add Federal law enforcement personnel, plus an equal or greater number of private security people, the law enforcement community is very large indeed.

Any police chief, sheriff, or other law enforcement executive knows that all the time and money spent on departmental improvement is wasted if the personnel of the department are not the very best the community can attract. The overall performance of a given law enforcement organization rests to a great extent on the caliber of its personnel. The early history of police professionalism tells us this; Berkeley, CA, Police Chief August Vollmer, one of the giants of law enforcement in the early part of this century, emphasized quality personnel recruitment, including the hiring of college students and graduates for the first time in policing.

Each generation has the task of reinvigorating the law enforcement profession with new personnel. One way to foster the recruitment of the best young people available is through the Law Enforcement Exploring Program of the Boy Scouts of America. Exploring today coordinates the activities of some 2,000 Explorer posts with more than 42,000 members. Operated by law enforcement agencies in the local, county, State, Federal, military, and private security areas, this program offers young people age 14 through 20 an opportunity to learn about law enforcement as a career choice. This year, the National Law Enforcement Exploring Conference, to be held July 14–19, 1986, at the University of Washington in Seattle, will be attended by some 2,000 Explorers.

The benefits to law enforcement of participation in this Exploring program are in the areas of community service and personnel development, both in encouraging future employees interested in law enforcement and in involvement in youth work for present employees. Employee involvement in working with youth is, of course, a constructive antidote to the law enforcement stress that can affect every agency.

The International Association of Chiefs of Police and the National Sheriff's Association have supported Law Enforcement Exploring since its inception. This year's conference is chaired by the Bureau of Alcohol, Tobacco and Firearms, with participation by the Federal Bureau of Investigation, Drug Enforcement Administration, Secret Service, Customs Service, U.S. Marshal's Service, U.S. Army and Air Force investigative arms, and many local police agencies. The 1983 conference was chaired by the FBI.

Law Enforcement Exploring is a way for your organization's employees to share what they know best with youth—their careers. I urge every law enforcement executive to support this worthwhile program that can benefit both youth and your department in the years ahead.

William H Webster

William H. Webster
Director
March 1, 1986

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Fingerprint Automation
Progress in the FBI's Identification Division

By
CHARLES D. NEUDORFER
Special Agent
Chief, Automation and Research Section
Identification Division
Federal Bureau of Investigation
Washington, DC

Time Magazine reported that 3 minutes after receiving its first assignment, Los Angeles' new automated fingerprint system identified a suspect in the "Night Stalker" killer case that had terrorized the city for months.[1] In a recent issue of the *FBI Law Enforcement Bulletin*, two police chiefs wrote:

> "... the automation of fingerprints for classification and matching ... [is] the most significant technological innovation in law enforcement in decades...."[2]

The pioneering work done by the FBI in automating fingerprint identification provided the groundwork for most of the automated fingerprint systems used today by the Nation's police departments. The FBI's Identification Division has been the Nation's repository for fingerprint records since 1924. As early as 1934, the Division had experimented with automation; only the punch card system was then available, and it was not able to cope with the daily workload in the Identification Division. By 1939, the FBI's fingerprint files had grown to 10 million.

Today, the criminal fingerprint file contains over 83 million cards representing over 22 million persons. An average workday brings some 27,000 fingerprint cards to the Identification Division. This tremendous workload has required the employment and training of over 3,600 employees.

In 1975, the Bulletin reported on the FBI's progress toward automation by computer.[3] This had begun in 1963 when assistance was requested of the National Bureau of Standards (NBS). The automation of the Identification Division's fingerprint work involved two kinds of information—criminal history records and fingerprints. Electronic data processing could be readily adapted to convert the criminal history file.

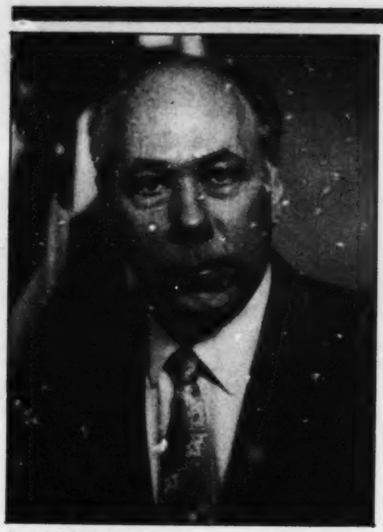
But computer hardware had to be designed to "read" fingerprints. The FBI and the NBS chose digital image processing as best suited to fingerprint automation. In effect, an entirely new method of matching fingerprints had to be developed.

A fingerprint reader had to be developed which would determine the position and orientation of the locations where ridges end or split (bifurcations). These are called the minutiae of the fingerprint.

The FBI contracted with Rockwell International and with Calspan Corporation to build engineering models of fingerprint readers. Concurrently, the NBS developed computer logic and algorithms (mathematical formulas) to search and match fingerprint data derived by these fingerprint readers.

While work on the computer fingerprint reader hardware and software was being done, the Identification Division began computerizing the criminal history records and automatically printing reports of identified file subjects, the first phase of the Automated Identification Division System. The entire project had to be accomplished in phases to take advantage of computer developments and to allow the daily work of the division to continue during implementation. By 1979, automated name searches in phase II of this system were being conducted to identify incoming fingerprint cards to records held in the Division.

In 1981, an ever-increasing backlog of over a half-million fingerprint cards and an average of 29 workdays to process new fingerprint cards caused the Identification Division to



Special Agent Neudorfer

suspend service to noncriminal justice users of the system for 1 year. This allowed reduction of the backlog and time to put into effect a user fee program for the processing of non-Federal employment and licensing fingerprint cards.

In 1983, the second phase of the automated system was connected with the National Crime Information Center's (NCIC) Interstate Identification Index.[4] States that can access the Interstate Identification Index can now make on-line requests for records from the FBI's Identification Division and receive them back on-line.

The third and final phase of the Automated Identification Division System, when fully implemented in 1988, will provide better service by reducing processing time for fingerprint records for both the criminal justice system and employment/licensing agencies. Rockwell International Corporation prepared a 3,000-page document detailing functional specifications of the final phase of the system in January 1982.

In the final phase, there will be more on-line processing of fingerprint cards, simplified processing, automated document transport, reduction of errors by use of small printer work stations and optical character recognition equipment, better management tools, improved output processing, a savings of space, improved security, and spare work station capacity.

The culmination of the three-phase system will reduce the fingerprint work processing from the current 2 to 3 weeks to less than 18 hours for 95 percent of the requests for fingerprint record checks.

Latent Fingerprint Automation

Automation of the Division's work was initially concentrated on the processing of 10-print fingerprint cards, since this was the bulk of the Division's workload most seriously in need of automated support. However, as fingerprint identification began early in this century as a process to identify the criminal for court handling, the use of new technology to solve crimes was also developed. So, too, with the automation process.

In recent years, work has been started to use computer technology as an aid in latent fingerprint work to solve criminal cases. With more and more of the Identification Division's data placed in computerized files, it is more feasible to let the computer perform tasks too labor intensive to be performed manually.

In the past, a latent fingerprint specialist would attempt every approach humanly possible to try to identify latent prints submitted as evidence in a case. But, after exhausting all possible suspects or leads without making an identification, the case would be returned to the contributing agency unsolved. Due to the millions of criminal fingerprints on file, attempts to develop additional suspects in a case were impractical.

But with the introduction of the computer and more than 16 million records now in the computerized files, it has become feasible to use new techniques to select logical suspects in cases involving crime-scene latent fingerprints. One program, the Latent Descriptor Index, is currently in operation.

Through the use of latent fingerprint pattern types, physical description information, and case information, a computer search of the Identification Division's automated files can be per-

"The . . . three-phase system will reduce the fingerprint work processing from the current 2 to 3 weeks to less than 18 hours . . . ."

formed. In the 2½ years since being instituted, this program has solved cases that would not have been solved otherwise.

Work is continuing to enhance the capabilities of this system. With the introduction of the semiautomatic fingerprint readers—SAR terminals— fingerprint minutiae data can now be used in these searches to further limit potential suspects.

A new automated capability, called the Automated Latent System Model, is being developed. This system provides an on-line searching and matching capability against a data base of repeat offenders and criminals in specific crime-type categories. Currently, this data base contains 193,000 records, but expansion to several hundred thousand is planned.

This system works by entering as much of the personal descriptive information, crime information, and fingerprint data as is available into a semiautomatic fingerprint reader terminal. The Automated Latent System Model se-

Above: Examiner manually classifying fingerprint card using card file.

Right: Automatic Voice Recognition—Examiner orally classifying fingerprint card using microphone.

lects candidates from the data base that match the personal and crime descriptive information submitted. Then all possible candidates are compared with the latent fingerprint via the matching algorithm.

Efforts to make this operational automated process more efficient are continuing. The data base is being expanded. Unsolved latent cases are being analyzed with this system in mind.

Future Automation

Today, the final step in the fingerprint identification process is the comparison of the incoming fingerprint card or latent print with a candidate fingerprint card selected by the automated search process. This is done by a qualified fingerprint examiner who decides whether the two prints are identical.

In order for these comparisons (a second examiner verifies the decision) to be made, the candidate fingerprint card must be retrieved from the manual fingerprint file, and after the comparisons are made, returned to the file.

Work began in 1983 on an Automated Image Retrieval System which will be able to display stored fingerprint images to the examiner, thus eliminating the manual fingerprint card retrieval process. This will also eliminate the problem of misfiled or out-of-file fingerprint cards which happen in a large manual filing system. But the important advantage of this system will be the response time savings. It will also permit the introduction of an on-line identification service through use of electronically transmitted fingerprint search requests from contributors.

Operator using Semiautomatic Fingerprint Reader to encode fingerprint manually

"[The] Automated Image Retrieval System ... will ... display stored fingerprint images to the examiner, thus eliminating the manual fingerprint card retrieval process."

"This approach is based on artificial intelligence concepts and will use rule-based systems to mimic the human decision process used in classifying a fingerprint."

This system is also a three-phase program. The first phase is the determination of the rigorous requirements for image quality, image capture, storage, and retrieval. The image-processing requirements for fingerprint images present an unusually complex problem in preserving the necessary detail of the fingerprint impression used by the fingerprint examiner. Again, the second phase will be the testing of a pilot Automated Image Retrieval System and finally the process of implementing production models into the overall automation system.

The requirements of the first generation automated fingerprint reader were to be able to read the minutiae characteristics (ridge endings and bifurcations) used by fingerprint examiners to identify an individual's fingerprints. After that reader was developed and tested, the potential for the reader to produce data which might be used to automatically classify a fingerprint was recognized. An attempt was made to add this capacity to the first readers, but it was learned that automatic classification was a much tougher job than minutiae reading.

Although there are some commercially available automated identification systems, which some local and State law enforcement agencies have, these systems have limited classification capabilities. The classifications produced by these systems are not compatible with the Henry-based NCIC classification system. More important to the Identification Division, these systems are incapable of handling the extremely large file of the FBI.

In 1983, the FBI initiated a new program to accomplish automatic classification by developing a second generation fingerprint reader. This new reader will be compatible with the FBI's existing minutiae data base, but will be significantly enhanced in its ability to read poor quality fingerprints. The classification to be produced will be compatible with the Henry-based NCIC classification used by all the State and national data bases for criminal fingerprints.

Advanced image-processing techniques have to be developed for this program to obtain a computerized representation of the fingerprint ridge structure. This will, of course, improve the entire system operation. The new reader will also have the ability to decide if the fingerprint is too illegible to be handled by the automated system and will then direct the fingerprint card to a live examiner. This is important to avoid errors in classification.

The next phase of this project is to develop specific fingerprint classification rules the computer will use. Since the major requirement is to be compatible with the live fingerprint examiner, the rules will have to be the same as those used by the examiner. This approach is based on artificial intelligence concepts and will use rule-based systems to mimic the human decision process used in classifying a fingerprint.

After testing of these developments, it is expected that these second generation fingerprint readers will become operational in the early 1990's.

It is anticipated that these more diversified services will be provided over existing criminal justice communications networks, such as the FBI's NCIC and the National Law Enforcement Telecommunications System (NLETS). Efforts of the Identification Division to provide faster services will be in the direction of nationwide, on-line, automated fingerprint identification searches.

However, with almost 20,000 active users of Identification Division services, needs and resources of the users vary considerably. Some users have neither a computer terminal nor fingerprint identification expertise. At the other extreme, a few have automated, minutiae-based fingerprint searching systems.

Thus, the Identification Division is adding its new capabilities rather than replacing existing services to provide a range of flexible services, consistent with the needs and resources of the various users. Any future capability for nationwide, on-line, automated fingerprint searches would be in addition to the existing range of capabilities.

Eventually, nationwide on-line fingerprint searches will be done in seconds with automated fingerprint classification, but if necessary, they can be done even before automated classification is operational. Electronic fingerprint image handling, such as that used in an Automated Image Retrieval System, would provide the speed and parallel processing capability that could make it feasible for complete classification and searching to be performed within a few minutes at most.

Future on-line fingerprint identification searches will be designed to be flexible enough to accommodate users without fingerprint identification expertise, as well as providing services that take advantage of the advanced capabilities of other users. In this way, the Identification Division will continue to meet the needs of all users.

Footnotes

[1] *Time*, October 14, 1985, p. 96.

[2] Col. Carroll D. Buracker and William K. Stover, "Automated Fingerprint Identification: Regional Application of Technology," *FBI Law Enforcement Bulletin*, August 1984, p. 1.

[3] Conrad S. Banner and Robert M. Stock, "The FBI's Approach to Automatic Fingerprint Identification," *FBI Law Enforcement Bulletin*, January 1975, p. 2.

[4] George Lyford and Udy Wood, "National Crime Information Center," *FBI Law Enforcement Bulletin*, March 1983, p. 10.

Federal Probation

An Overview

"The U.S. probation officer works closely with many law enforcement agencies in fulfilling his obligation to protect the community."

By
PAUL W. BROWN
U.S. Probation Officer
Southern District of Texas
Houston, TX

Early criminal law in England involved the common usage of corporal punishment. During the reign of Henry VIII, more than 200 offenses, including relatively minor property offenses, were punishable by death.[1] Imprisonment, as an alternative, began to replace capital and corporal punishment during the end of the 18th and the first half of the 19th century.[2]

The first probation law, an alternative to imprisonment, was passed in Massachusetts in 1878; and in 1925, the Congress passed the law giving birth to Federal probation.[3] U.S. probation officers are both probation and parole officers. In 1930, the Probation Act was modified to remove the appointment of U.S. probation officers from civil service and put it under the jurisdiction of the judges. However, the U.S. Attorney General continued to supervise the probation service until 1940, when it came under the jurisdiction of the Administrative Office of the United States Courts.[4]

There are 94 Federal judicial districts of various sizes serving the United States, Guam, Puerto Rico, and the Virgin Islands. Whereas all of Wyoming is one judicial district which is served by four U.S. probation officers stationed in Cheyenne, the State of Texas is divided into four districts with several hundred U.S. probation officers assigned to dozens of offices.

The chief judge of each district is responsible for the appointment of U.S. probation officers. At this time, there are approximately 1,902 U.S. probation officers and 200 pretrial services officers assigned to the 94 judicial districts.[5]

Probation and Parole

Many times in the newspapers and on the news the terms "probation" and "parole" are used interchangeably. Probation is granted as a judicial act without the offender being incarcerated, and parole is the release from part of a custody sentence that has been served in a correctional institution.[6] As with everything, there are exceptions. For example, probation could include a condition to serve a period of time incarcerated, such as weekends or evenings. However, probation is generally thought to be an alternative to imprisonment.

Probation

The *Federal Criminal Code* gives the Federal courts the authority to grant probation for any offense not punishable by death or life imprisonment and to place the defendant "on

Mr. Brown

probation for such a period [not to exceed 5 years] and upon such terms and conditions as the court deems best."[7]

The U.S. probation officer first enters into the judicial process upon arrest of the defendant by providing the court a bond investigation and by providing bond supervision if so ordered. This phase of the work is pretrial services and can be implemented by either the probation office acting in the capacity of a pretrial services officer, or in some districts, by an independent pretrial services agency.

Pretrial Diversion

During the early stages of processing, the U.S. attorney may decide the defendant is a good candidate for pretrial diversion. If so, the defendant is referred to the probation office so that the U.S. probation officer can provide the U.S. attorney with a background investigation and recommendation in regard to suitability. If placed on pretrial diversion supervision by the U.S. attorney, the probation officer supervises the defendant for 1 year. If adjustment has been positive, the U.S. attorney can move to have the pending charges dismissed. If not, the case can be returned to court for disposition as if the defendant had never been diverted.

Presentence Investigation

The next phase of involvement is usually the presentence investigation (PSI). Rule 32(c) of the *Rules of Criminal Procedure* requires that "the probation service of the court shall make a presentence investigation and report to the court before the imposition of sentence or the granting of probation," unless the defendant waives the report with the permission of the court or unless the court finds there is sufficient information available without the report.[8] In essence, the presentence investigation, which is standardized in most Federal courts, is a verified background investigation of the defendant. It also provides the court with an offense summary, evaluation, and recommendation. The U.S. Bureau of Prisons uses the presentence investigation for classification and other purposes if the defendant is incarcerated; the U.S. Parole Commission uses it for release decisions; and the U.S. probation office uses it for supervision purposes if the defendant is paroled or placed on probation.

Probation and Parole Supervision

If under probation supervision, the U.S. probation officer monitors the probationer's adjustment in the community, enforces any special conditions of probation such as drug treatment, payment of restitution or fine, and the completion of community service. If violations occur, they are reported to the court, and a decision is made in regard to returning the probationer to court for revocation proceedings or continuing him on probation. If the probation is revoked, the court can impose the suspended or unimposed sentence.

The *Code* also mandates that U.S. probation officers provide investigative and supervisory services for the U.S. Parole Commission.[9] One of the major differences between probation and parole *supervision* is the ultimate authority, i.e., the court or the Parole Commission. In other words, the supervision itself is very similar, but the jurisdiction over the probationer or parolee is different. Although there are not many, the U.S. probation officer is also responsible for the supervision of parolees of the U.S. Air Force, Army, and Navy.[10]

As of June 1982, 71.6 percent of those under Federal probation supervision were on probation or pretrial diversion, and 28.4 percent were on various forms of parole, including military parole. In that same time period, there were a total of 58,373 persons under Federal supervision.[11]

U.S. probation officers have arrest powers only in regard to probationers.[12] However, the preference is to obtain a probation violators warrant from the court if there is an alleged probation violation, with the U.S. marshals executing the warrants. In 39 of the 94 judicial districts, U.S. probation officers are authorized to carry firearms.[13] Each district has its own policy in regard to firearms. In the Southern District of Texas, for example, the court permits U.S. probation officers to carry firearms on an optional basis for self-defense purposes only after initial and ongoing training by certified firearms instructors.[14]

Cooperation with Law Enforcement Agencies

The U.S. probation officer works closely with many law enforcement agencies in fulfilling his obligation to protect the community.[15] Contact is maintained with the Federal agent who investigated the case. The probationer or parolee is registered with the Federal Bureau of Investigation so that Federal probation will be notified of any serious arrests during the period of supervision. Another valuable resource for those officers working near the U.S./Mexican border is the U.S. Customs computer system, TECS, in which data on the individual can be entered so that unauthorized trips outside the United States may be detected.

One of the most valuable resources is the local law enforcement officer who frequently is very aware of the probationer's or parolee's adjustment in the community. By working closely with these officers, the U.S. probation officers can either intervene in the case before the situation becomes too serious or return the offender's case to the court or parole commission for revocation proceedings if appropriate. The assistance of local police officers in this regard is always of great assistance and most welcome. The U.S. probation officer also makes frequent use of local law enforcement agencies for record checks to see if there has been unreported contacts or arrests, as any contact with law enforcement agents should be reported by the probationer or parolee to the U.S. probation officer.

The Future

There are substantial changes in store for Federal probation due to the Comprehensive Crime Control Act of 1984.[16] The act changes a largely indeterminate sentencing structure into a determinate one. A U.S. Sentencing Commission will promulgate guidelines to assist the Federal courts in determining the sentences imposed. These guidelines will not begin to be implemented for at least 2 years after approval of the act.

The U.S. Parole Commission will eventually be abolished. After November 1, 1991, the Federal courts will assume jurisdiction of offenders sentenced under the present law who are on parole or released after that date.[17] Parole, as it is now known, will be a thing of the past in the Federal system.

The U.S. probation officer has a challenging profession in an ever-changing field. The probation officer must be a generalist with many areas of expertise. With the eventual abolition of the Parole Commission, the U.S. probation officer will truly become a *probation officer* serving primarily the Federal courts—and through the courts, the community.

FBI

Footnotes

[1] P.F. Cromwell, Jr., G.G. Killinger, H.B. Kerper, and C. Walker, *Probation and Parole in the Criminal Justice System* (St. Paul, MN: West Publishing Co., 1985), p. 3.

[2] Ibid., p. 5.

[3] R.L. Thomas, "Professionalism in Federal Probation: Illusion or Reality?" *Federal Probation Quarterly*, vol. 47, No. 1, March 1983, p. 3.

[4] V.H. Evjen, "The Federal Probation System: The Struggle to Achieve It and Its First 25 Years," *Federal Probation Quarterly*, vol. 39, No. 2, June 1975, pp. 8–9.

[5] Telephone interview with Regional Probation Administrator, Harold B. Wooten, December 30, 1985.

[6] Supra note 1, p. 151.

[7] 18 USC 3651.

[8] Federal Rules of Criminal Procedure, 32(c).

[9] 18 USC 3655 & 4205.

[10] U.S. *Probation Manual*, sec. 1005, pp. 1–3.

[11] E.J. Brown, T.J. Flanagan, and M. McLeod, eds., *Sourcebook of Criminal Justice Statistics—1983* (U.S. Dept. of Justice, Bureau of Justice Statistics, Washington, DC: U.S. Government Printing Office, 1984), pp. 552–3.

[12] 18 USC 3653.

[13] *Federal Probation Officers Newsletter*, vol. 24, No. 4, Nov./Dec. 1985, p. 8.

[14] Memo outlining the "Firearms Policy, Southern District of Texas."

[15] U.S. *Probation Manual*, sec. 4001, p. 4.

[16] Memorandum of October 23, 1984, from Administrative Office Director W.E. Foley re: Comprehensive Crime Control Act of 1984.

[17] A. Partridge, *The Sentencing Options of Federal District Judges*, Federal Judicial Center, June 1985, revision, p. 27.

What Every Negotiator Would Like His Chief To Know

By
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Instructors assigned to the Special Operations and Research Unit (SOARU) at the FBI Academy teach approximately 25 hostage negotiation schools a year. At these schools, one of the most frequent comments from attending police officers is, "I understand and accept what you're saying, but I wish my chief could hear this." The following fictional letter discusses those topics most frequently mentioned as "what I wish my chief would know."

Special Agent Fuselier

Dear Chief,

I've been the principal negotiator here for about 2 years now, and I've been involved in a number of incidents with our special response team. I realize that you're pretty busy and quite frankly so am I, but there are some things I'd like to make sure you know so that both of us can do a better job. I guess you could call these points "what every negotiator would like his chief to know."

This information comes primarily from the negotiation training I received from the SOARU, but I've seen the same problems occur in our department. Negotiators from other departments tell me they've seen them, too, so I think these ideas are pretty valid.

Options Available

First of all, when you have a hostage or barricade incident, you have about five response options available to you:

1) *You can contain, isolate, and negotiate.* Most departments use this as a first response, and the success rate is very high. But I want to stress the need to isolate the subject so that he can only communicate with the negotiator. If he gets on the phone to the media, to friends, or to relatives, things can go downhill pretty quickly.
2) *You can contain, isolate, and simply demand surrender.* This option is most feasible in a barricade situation where the subject has taken no hostages. Some departments will just wait the guy out.
3) If "verbal tactics" don't work, you can use more forceful tactics to resolve the situation. Most departments first consider *using chemical agents* to force the subject out.
4) Next, you could consider *using a sniper* to neutralize the hostage taker. Be aware, though, that hostage takers sometimes exchange clothes with victims, especially if they fear an assault by police.
5) Finally, you can *send in the special weapons and tactics team.* This, I'm sure you know, poses the highest risk not only for our guys but also for the hostages. If the hostages haven't been hurt and there are no immediate threats to them, negotiation is the safest option for all involved.

Time

Negotiation, however, takes time, and I know the last thing you want to hear if you've got 100 guys on overtime is "things are going great—nothing has happened in the last 6 hours!" I wish I could say that I've learned some surefire ways of talking a guy out in an hour, but no one can tell how long a particular incident will take. The Los Angeles County Sheriff's Office did a study of 29 incidents a few years ago and found that the average duration was 12 hours, but the actual time involved ranged from 1 hour to 40 hours.[1]

As time goes on, however, you can count on the subject getting hungry and thirsty, getting tired of constantly watching his hostages, and worrying about toilet facilities and sick hostages. When I spend that same time suggesting to him that coming out would be the most sensible thing to do,

"... the negotiator is one of the best sources of intelligence on the subject's personality type, current mental status, and significant behavioral patterns."

he begins to think I may be right. Time also lets us gather more intelligence about the guy and lets him develop some trust toward me. It also makes him realize that sooner or later, he is going to come out—and some ways of coming out are better than others.

Deadlines and Demands

How about when the subject sets deadlines for us to give him money or a car? The probability of talking the guy beyond his deadline is actually very high. In fact, the SOARU says that it knows of only one U.S. incident where a hostage was killed because a deadline wasn't met.[2] Although we can deal pretty well with the subject's usual demands and deadlines, sometimes we have more trouble from other quarters. Negotiators have told me that occasionally, their boss has told some of them, "You have until 5:00 p.m. to talk him out, then the SWAT team will go in." Frankly, Chief, one thing we don't need is deadlines from our side. I don't think I could talk my way past that kind of deadline.

The Chief as Negotiator

Another point the SOARU emphasizes in its training is that for a number of reasons, the chief should not be the negotiator. First, you know that we always have a primary and secondary negotiator on scene and that job of the backup is to notice if the primary negotiator is getting too involved, if his stress level is rising, or if he is losing his objectivity. If you are doing the negotiating and start to get too involved, who do you think wants to tell you that you're losing it? If your secondary delays at all, the situation might go from bad to worse. Second, if you are negotiating, then you aren't available to make the other command decisions that are always coming up. Third, you can't stall for time very well because the subject knows, for example, that you have the authority to send a car to the scene immediately. The negotiator should not have that kind of authority; rather, he needs a lack of authority to shift the blame, i.e., "I'm doing everything I can but these things take time."

Use of Nonpolice Negotiators

While I'm on the topic of who should or shouldn't negotiate, I'd like to warn you about nonpolice negotiators. The SOARU points out that using "civilian" negotiators like members of the subject's family, friends, clergy, a mental health professional, or an attorney is a high-risk proposition. Since these people have generally not been trained in negotiation, they will probably, under the stress of the situation, revert to their usual way of talking with the subject. All negotiators have heard war stories about family members who come to the scene and say, "Let me talk to him, he'll listen to me." When they get on the phone, some will call the subject a jerk or tell him he's just screwing up again; another will say, "Hang in there, Joey, we're all proud of you."

Clergymen, on the other hand, may get excessively moralistic or theological, while attorneys may have difficulty deciding which side they represent. Even mental health professionals with experience in crisis intervention may have little to offer if they have not had negotiation training.[3] They are accustomed to people coming to them and asking for help, not resisting it. And, generally, they don't have the mental "set" to expect demands and to deal with lying or threats if those demands aren't met. After getting negotiation training, however, they can work well as consultants to the negotiation team.

Finally, if a nonpolice negotiator is being used and you decide to go tactical, that person may be reluctant (or may refuse) to participate in a tactical response and may alert the subject by changing or disrupting the negotiations. So, unless there are specific reasons to the contrary, negotiators should be drawn from our trained officers, with professional consultants to back them up if necessary.

Exchange of Hostages

The SOARU recommends that you not exchange hostages during an incident. I know that in the past, exchanges have sometimes been considered the "right" thing to do—to offer yourself as a hostage instead of the 19-year-old bank teller—but now I know of no major department that would advocate exchanging hostages. The SOARU gives five reasons to support their recommendation:

1) If you exchange a hostage for a cop, the risk of injury goes up, because:
   - — killing a cop is more prestigious to a con than killing a 19-year-old bank teller;
   - — the subject will feel more of a threat from a cop as a hostage; and
   - — the cop may feel obligated to try to disarm the subject.
2) If the person exchanged is a friend or family member, the subject may want to kill that person or to set up an audience for his suicide (e.g., "See what you made me do? This is your fault").

3) If a cop goes in as a hostage, the tension level will go up "inside" and even more so "outside" because the hostage is now a personal friend rather than a stranger.
4) Exchanges may interfere with the "Stockholm Syndrome" that often occurs between a subject and hostages. This syndrome can work in our favor because if the subject begins to get to know the hostages personally, he is less likely to hurt them. If hostages are exchanged, however, you reduce the possibility of that kind of "psychological protection."
5) Lastly, the subject may be asking for a hostage exchange to serve his own purposes. To grant the exchange would be to give him the advantage.

In sum, you can see there are many good reasons *not* to exchange hostages and no valid reason to support it.

Tactical Use of the Negotiator

One last point I'd like to mention is how a negotiator can directly assist the SWAT team, that is, the tactical use of the negotiator. Throughout any hostage incident, the negotiator is one of the best sources of intelligence on the subject's personality type, current mental status, and significant behavioral patterns. At the same time, he works to tire the subject, increasing situational stress if the subject is too comfortable or decreasing stress if the subject is very anxious. When information he gathers, together with that provided by tactical observer/sniper teams, makes you decide that an assault is necessary, the negotiator's role becomes critical because he can directly assist the SWAT team in at least five ways. First, he can verbally distract the subject during the initiation of the assault. The negotiation "process" is now familiar to the subject and can be used to keep him occupied during those first few seconds. Second, the negotiator can make major "concessions," saying he has convinced his boss to provide a car or whatever; the subject suddenly finding he has "won" may psychologically let down his defenses just before the assault. Third, when negotiations are on a commercial telephone and the location of the phone is known, the negotiator can keep the subject on the phone so the SWAT team knows the subject's position. Fourth, when a field phone is used and the wire is marked, the negotiator can tell the SWAT team that the subject has, for example, 25 feet of wire beyond the front door. Finally, the negotiator may be able to set the subject up for a sniper shot by convincing him to move to a certain location.

Now, I know that some people believe that the negotiator should not be told if an assault is to take place. The concern is that he might inadvertently "tip off" the subject, because he has become "too emotionally involved" with him. First of all, the negotiating team is going to be first to realize that negotiations are not succeeding, so whether to "tell" it about a planned assault is a moot point. Second, negotiators work as a team specifically to watch for and correct any loss of objectivity on the part of one negotiator. Mirabella and Trudeau, the only study I found that mentions this topic, found that 8 out of 23 negotiators reported feeling "sorry" for the subject.[4] But, feeling "sorry" for a subject is a far cry from losing so much objectivity that a negotiator would jeopardize the lives of fellow officers.

I believe that the advantages gained by the tactical use of the negotiator would significantly reduce the risk to the SWAT team. Remember, just because I received training as a negotiator doesn't mean that I changed my oath or forgot who I'm sworn to protect.

If you have any questions, I would be more than happy to meet with you and discuss them. Thanks for the time.

Footnotes

[1] R.W. Mirabella and J. Trudeau, "Managing Hostage Negotiations," *Police Chief*, vol. 45, No. 5, 1982, pp. 45–47.

[2] In Rochester, NY, in 1981, a lone gunman entered a bank, took about eight hostages, and demanded that the police kill him by 2 o'clock. When they didn't, he shot and killed a teller, then went over and stood in front of a window where he knew snipers could see him. A sniper then shot and killed him. C.R. Van Zandt, personal communication, FBI Academy, Quantico, VA.

[3] G.D. Fuselier, "A Practical Overview of Hostage Negotiations," (Pt. 2) *FBI Law Enforcement Bulletin*, vol. 50, No. 7, July 1981, pp. 10–15.

[4] Supra note 1.

WARNING!!
POLICE SEAL

Automobile Insurance Fraud Pays ... and Pays Well

By
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A multimillion dollar automobile insurance fraud scheme came to light in mid-1982 through an investigation conducted by the Federal Bureau of Investigation (FBI) in Atlantic City, NJ. Believing that they were dealing with an isolated case of fraud, Agents arrested an individual during a meeting held in an Atlantic City casino. This individual became exceedingly belligerent and refused to identify himself to the Agents. Based upon the subject's reticence and other factors, the Agents were able to obtain a search warrant for his hotel room.

In that hotel room, in neat black looseleaf binders, the Agents discovered well-kept records of an automobile insurance fraud scheme that would prove to be the largest in New York State history. The scheme itself was so simple and so lucrative that it spread quickly, particularly in the New York metropolitan area. Like a good television program, spinoffs followed, so many, in fact, that it became difficult to keep track of the hundreds of individuals identified as being directly or indirectly involved in the scheme.

Because of the nature and extent of the case, the U.S. Attorney for the Eastern District of New York assembled a joint Federal-city task force consisting of personnel from the Federal Bureau of Investigation, U.S. Postal Service, and the Auto Crime Division of the New York City Police Department.

The Nature of the Scheme

The scheme's success was attributed to the fact that the participants controlled every aspect of the process, from obtaining the insurance through processing accident claims by carriers.

The first step in the process was to obtain the automobile insurance, usually from a broker who profited from this service since he was knowledgeable of the fraudulent purposes. In the scheme, the broker would obtain insurance for the same automobile in different names or insure an automobile for an individual using an alias or for an individual who was unaware of the existence of the insurance.

The next step was to have the automobile insurance policy placed with an insurance carrier who employed a member of the scheme. This could be accomplished in two ways. At first, employees of the New York State Assigned Risk Plan were paid to bypass the random computer placement and manually assign the insurance to the company designated by the other members of the scheme. Later, brokers realized they could steer a policy to a particular insurance carrier by merely stating on the application that a particular company was the insured's household carrier. In most cases, the designated insurance company would not even check to see if the individual was previously insured by them.

Once the insurance was in force, members of the scheme activated it. The initial claim against the policy was invariably a vandalism claim, with the sole purpose of recouping the expense of setting up an automobile, i.e., license, registration, insurance premium, and payoffs to the broker and assigned risk employees.

The vandalism itself was usually staged. Parts of the vehicle were carefully removed to be replaced later, or a similar automobile previously damaged was substituted. Claim adjusters, who were also part of the scheme, would then photograph the "vandalized" automobile and draw up an estimate of damage, which would be submitted to their companies as proof of the loss. In some instances, claim adjusters were simply handed photographs of the damaged vehicle, never actually seeing the damaged automobile.

Shortly thereafter, another claim would be reported to the insurance carrier. This claim would usually be a collision in which the insured's vehicle

Special Agent Beekman

would be clearly liable for the damage to itself and to the other automobiles involved. Usually, the other cars were parked and were high-priced models. Invariably, the driver of the insured vehicle would swerve to avoid a dog, a child, or another car and subsequently hit one or more parked cars, causing substantial damage. Not surprisingly, the parked cars were also controlled by members of the scheme.

After the alleged collision, the automobiles were supposedly towed to a specific auto body shop to which the insurance carrier's claim adjusters would go to view the damage. The claim adjuster would then forward all paperwork and photographs to the insurance carrier. As there appeared to be nothing improper regarding these claims, the company would quickly settle them. Within a very short time, members of the scheme would receive claim checks for the damaged automobiles, and in many cases, from more than one carrier. Automobile insurance policies were exploited by the scheme's participants to their maximum fraudulent advantage.

The auto body shop became the focus of the scheme. The owner of an auto body shop, who had a number of high-priced wrecks on his lot, could make a small fortune in fraudulent claims. One owner bragged that he made over $8 million (tax free) in 2 years.

These high-priced wrecks would literally become picture cars. Some shop owners would maintain a picture library of these damaged vehicles and give them to claim adjusters at the appropriate time. Sometimes, before the photographs were taken, license plates from a similar, but undamaged car would be placed on the wrecked vehicle and more claims would be generated.

In some cases, fictitious vehicles were invented for the purpose of making claims. These damaged phantom vehicles existed only in the photographs that were submitted by the corrupt adjuster to their companies.

After a vehicle had seen too much action and outlived its usefulness, the last step was to make it "disappear." This was accomplished by having the car chopped. Since the scheme worked on a profit motive, the automobile would now be reported stolen. Again, the insurance company would pay off handsomely.

The Computer as an Investigative Aid

Recognizing the mechanics of the scheme proved to be the simple part. Organizing the data received from insurance companies, brokers, and body shop owners presented the major problem. This problem was eventually solved with the help of the vast computer resources supplied by the U.S. Postal Service.

From the documents that were seized in Atlantic City, 35 automobile insurance carriers were identified as being victims of the scheme. Later, each of these insurance carriers was contacted and supplied with guidelines to help them identify fraudulent claims within their companies. Within weeks, hundreds of automobile insurance claim files flooded the U.S. attorney's office.

Approximately 40 FBI Agents were recruited and trained to assist in computerizing the information contained in over 3,000 claim files that were amassed. Although this proved to be a tedious and unpopular process,

"The multiagency approach to the investigation of major fraud schemes proved to be very effective."

Figure 1

REPORT NUMBER 2
LIST OF VEHICLE NUMBERS AND RELATED PRINCIPLES SORTED BY VIN NUMBER
CASE NUMBER: 195 75552 F(2)

FILE	AGENCY	VIN	LICENSE	NAME	INCIDENT TYP	LOC	ESTIMATED AMOUNT	MILEAGE	CHECK AMOUNT	CLAIM DATE
1358	AIC	2W87K9N1856?83	997UDS	Jones			1,664	026720	199	
							1,664		199	
1762	USF	2W87K9N194327	537VDD	Brown			3,982	001317	3,782	05 21 80
							3,982		3,782	
2395	GAC	2W87TAN124179	656JDQ	Smith				12384	8,252	
									8,252	
308	BOC	2W87TAN124453	2663ABJ	Updown Corp			4,386	015385	4,368	06 11 81
							4,386		4,368	
82	BOC	2W87TAN127752	121VMC	White	PC	BN	6,400	065375	6,400	·05 27 81
	BOC	2W87TAN127752	143TZY	Johnson	PC	BN	4,756	002986	4,756	05 27 81
1264	GAC	2W87TAN127752	121VMC	White			4,975	002059	4,975	10 08 80
84	BOC	2W87TAN127752	121VMC	White	PC	BN	5,452	11858	5,422	
							21,583		21,553	
1081	HAR	2W87TAN14464	218VNT	Black			4,203	021632	4,003	08 23 82
							4,203		4,003	
1326	USF	2W87V7N203089	642FVM	Regal			1,996	043619	1,996	06 19 81
2371	USF	2W87V7N203089	642FVM	Regal			1,996	043619	1,996	06 19 81
							3,992		3,992	
402	TRA	2W87WAN10382	1383AEV	P. Fiero			4,640	010997	4,776	04 30 81
							4,640		4,776	
27	GAC	2W87WAN103822	1383AEV	P. Fiero	PC	BN	4,907	010977	4,907	04 30 82
280	BOC	2W87WAN103822	1383AEV	P. Fiero			4,694	010997	4,426	06 12 81
1670	USF	2W87WAN103822	1383AEV	P. Fiero			4,840	008146		06 03 81
339	HOR	2W87WAN103822	1383AEV	P. Fiero			4,761	10997		05 22 81
33	WAU	2W87WAN103822	1383AEV	P. Fiero	PC	SI	3,901	008362	3,909	05 20 81
1305	GAC	2W87WAN103822	1383AEV	P. Fiero			4,907	010997	4,907	04 28 81
44	MEM	2W87WAN103822	1383AEV	P. Fiero	PC	SI	4,707	010497	4,707	04 24-81
268	BOC	2W87WAN103822	9383ADD	J. Rambo			4,771	010997	4,771	04 21 81
45	ANF	2W87WAN103822	1383AEV	P. Fiero	PC	SI	4,711	010997	4,711	04 17 81
292	AML	2W87WAN103822	1383AEV	P. Fiero			4,776	10997	4,776	04 17 81
38		2W87WAN103822	1383AEV	P. Fiero	PC		5,202		4,407	
763	WAV	2W87WAN103822	1383AEV	P. Fiero			3,909	008362	3,939	
1343	USF	2W87WAN103822	1383AAEV	P. Fiero					45,907	

the computer printouts enabled investigators to keep track of the claim files, identify patterns, and begin investigations.

The computer printouts were an invaluable source of information and an excellent cross reference, since the reports could be generated in any manner that the investigators deemed useful. (See fig. 1.) In this investigation, 10 reports were used extensively.

1) A log of all the claim files in the system;
2) A list in numerical order of the vehicle identification numbers (VIN) of all the automobiles used in the claim files. This report clearly showed the number of times the same vehicle was used in the scheme. In fact, the indictments obtained were based largely on the use of the same vehicle in numerous claims;
3) A list of names of the insured and claimants in alphabetical order;
4) A numerical listing by addresses;
5) Telephone number listings in numerical order;
6) A numerical listing of all license plate numbers;
7) A list of all policies written by the same insurance broker;
8) A list of all claim files obtained from the same insurance company;
9) A list of all claims appraised by the same insurance adjuster; and
10) A list of all auto body shops in alphabetical order. (From this list it was discovered that some of the auto body shops, in fact, did not exist).

"... this investigation represented a major milestone in an effort to establish meaningful deterrents to automobile insurance fraud...."

The History of a 1980 Lincoln

After the computer assisted in identifying an automobile that was used several times in the scheme, a chart would be created to actually trace the fraud. This chart makes it very easy to see how the scheme worked. (See fig. 2.) The concept of creating charts on an automobile used several times in the scheme was a technique used successfully by the Auto Crime Division of the New York City Police Department.

Once such chart was created on a 1980 Lincoln, originally registered to Mr. Continental* in New Jersey. On August 8, 1981, Mr. Continental wrapped his Lincoln around a pair of telephone poles, sending him and his wife to the hospital. Fortunately, Mr. and Mrs. Continental sustained only minor injuries, but their 1980 Lincoln was declared a total loss and sold for salvage.

Knowing that the State of New Jersey does not indicate on their automobile titles that the vehicle was a total loss, participants in the scheme purchased the wrecked Lincoln, with its clean title. The Lincoln, with its title, was brought to Brooklyn, NY, and the fraud process was set in motion.

On October 10, 1981, Valerie Transam*, driving her 1979 Pontiac hit the parked 1980 Lincoln now registered to Alfred Mark.* Not surprisingly, the pictures of Mr. Mark's damaged Lincoln that were submitted to the insurance company by the claims adjuster showed identical damage to that incurred by Mr. Continental, the original owner.

Four other claims were identified using the same Lincoln. In each of these accidents, the Lincoln was parked and hit by another car. In each claim the driver of one vehicle was clearly liable for the accident, and his insurance company would pay off almost automatically, in most cases without any investigation.

An additional claim on the 1980 Lincoln was identified, in which Mr. Mark made a claim to his insurance carrier because he alleged that his Lincoln was hit while it was parked and the identity of the other car was unknown.

The scheme was so successful and the participants so confident that they reported two accidents involving the Lincoln on the same day. On November 20, 1981, a 1980 Audi driven by Diane Fox* hit the parked 1980 Lincoln, now registered to Tony Towncar.* On the same day, a 1980 Cadillac driven by Frank Fleetwood*

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*fictitious

Figure 2

1980 LINCOLN

DATE OF LOSS	INSURED NAME & ADDRESS	INSURED VEHICLE VIN & TAG	TYPE OF CLAIM	CLAIMANT NAME & ADDRESS	CLAIMANT VEHICLE VIN & TAG	AUTO BODY SHOP	MILEAGE*	PAYMENTS	REMARKS	FILE NO
8/8/81	JOHN CONTINENTAL 6 MAIN ST. HOMETOWN, N.J.	1980 LINCOLN OY89G636553 151-FKM (NJ)	Hit 2 PHONE POLES	—	—	—	23.204	$14,600	LEGITIMATE ACCIDENT BODILY INJURY TOTAL LOSS	1
10/10/81	VALERIE TRANSAM 1300 73 ST. BROOKLYN, NY	1979 PONTIAC 2W87 K9N123855 9798-APE	HIT A PARKED CAR	ALFRED MARK 1700 58 ST. BROOKLYN, NY	1980 LINCOLN OY89G636553 151-VOW	WORLD WIDE	23.204	$ 7,176	NO BODILY INJURY	2
10/29/81	VALERIE TRANSAM 1300 73 ST. BROOKLYN, NY	1980 MERCEDES 1231201205043 9489-HEY	HIT A PARKED CAR	ALFRED MARK 1700 58 ST. BROOKLYN, NY	1980 LINCOLN OY89G636553 3488-AGE	36 ST. COLLISION	23.204	—	MERCEDES USED IN OTHER CLAIMS	3
11/20/81	DIANE FOX 1300 73 ST. BROOKLYN, NY	1980 AUDI 43A0660759 245-VXQ	HIT A PARKED CAR	TONY TOWNCAR 1700 58 ST. BROOKLYN, NY	1980 LINCOLN OY89G636553	RELIABLE COLLISION	23.204	$ 6,500	RELIABLE—SAME AS 36 ST. COLLISION	4
11/20/81	FRANK FLEETWOOD 1492 COLUMBUS ST. BROOKLYN, NY	1980 CADILLAC 6D696A910790 2225-ADD	HIT A PARKED CAR	ALFRED TOWNCAR 1700 58 ST. BROOKLYN, NY	1980 LINCOLN OY89G636553 727-RIP	RELIABLE COLLISION	23.204	$ 7,275	TAG 727-RIP USED IN FILE 6	5
12/20/81	ANTHONY REGAL 10 BROADWAY TOWN FALLS, NY	1980 BUICK — 727ORIP	HIT A PARKED CAR	ALFRED MARK 1700 58 ST. BROOKLYN, NY	1980 LINCOLN OY89G636553 6580-ADD	—	—	NOT PAID	TAG ON 80 BUICK USED IN FILE 4 & 5	6
1/6/82	ALFRED MARK 1700 58 ST. BROOKLYN, NY	1980 LINCOLN OY89G636553 7717-ADD	HIT WHILE PARKED	—	—	RELIABLE COLLISION	13.204	$ 7,552	CHECK SENT TO BROKER—WIFE OF AUTO BODY SHOP OWNER	7

* MILEAGE—AS REPORTED IN CLAIM FILE
— NO INFORMATION AVAILABLE

Original accident photo of the 1980 Lincoln.

also hit the parked Lincoln, now registered to Alfred Towncar.* In both accidents, the appraisal photographs of the Lincoln that were submitted to the insurance companies were identical to the damage incurred by the original owner.

Over a period of 6 months, the insurance industry paid over $35,000 in claims to the owner of the 1980 Lincoln.

Identifying the Participants

Using charts, the fraud can easily be seen. However, what was not as evident was who profited from the scheme, as many of the people being used were fictitious and some were deceased. (In one claim, a 1979 Datsun driven by David Maxima*, hit a parked 1978 Cadillac registered to Marvin Taub and a parked 1981 Corvette registered to Robert Zielinski. It was discovered that Traub and Zielinski lie next to each other in a cemetery adjacent to the auto body shop where their automobiles were supposed to have been repaired.)

The focus of the investigation now centered on sifting through the numerous claims and identifying the principal subjects. This was accomplished by a two-pronged investigation. First, there was a repetition of addresses used by the insured and claimants. Upon investigating these addresses, it was learned that four were controlled by one individual and another four were controlled by a second individual. Therefore, these two individuals were targeted as major participants in the scheme.

The second part of the investigation focused on the claim checks which were provided by the insurance companies. By handwriting and fingerprint comparison of a number of suspects, additional major participants were targeted.

Variations of the Scheme

One ingenious member of the scheme would lease 5 to 10 identical luxury-type automobiles. Each of these would be insured with multiple companies under different names. Then, one of these identical automobiles would be deliberately wrecked in order that this wreck could be used to make multiple claims against all the other insurance carriers. According to one participant, the intentional wrecking of an automobile was accomplished by actually driving it into a stationary object at high speed. This wreck now became the picture car for all the other identical cars.

Another variation occurred on Halloween day at the same location in Staten Island, NY. An individual driving an older model vehicle swerved when his car was hit by an egg and hit the same two parked cars seven times in a 2-hour period! This claim was reported to seven different insurance companies.

Halloween and July 4th proved to be ideal for reporting vandalism claims, while rainy and snowy days were perfect for reporting collisions.

Summary

Over a 3-year period, 50 individuals have been indicted and convicted as a result of the investigation conducted by the joint Federal-city task force. The multiagency approach to the investigation of major fraud schemes proved to be very effective.

Although this investigation represented a major milestone in an effort to establish meaningful deterrents to automobile insurance fraud by putting three major rings out of business, this deterrent proved to be short-lived. The opportunity to make big money makes it almost impossible to eliminate the problem of automobile insurance fraud. As one person put it, "Robbing an insurance company is a lot easier and a lot less dangerous than robbing a bank." To this can be added that it is a lot more profitable to rob an insurance company than a bank.

The FBI's New York City Office is currently making efforts to establish a permanent multiagency task force to work with the automobile insurance industry to address the problem of automobile insurance fraud on a larger scale.

Conducting Effective Meetings

By
GLEN E. PLUTSCHAK
and
CAROLYN SUE BROWN
Administrative Officers
Training and Development
Maryland Division of Parole/Probation
Easton, MD

Do you agree or disagree with the following statements?

1) The meetings I attend are necessary.
2) The meetings I attend begin on time.
3) The leader effectively controls the meeting and all participants contribute.
4) Clear, concise minutes are kept of the meeting.
5) When I leave the meeting, I have a clear understanding of my responsibilities.

If you rarely agree with the above statements, you are more than likely wasting valuable time. Unfortunately, many in the criminal justice system spend enormous amounts of time in meetings. To compound matters even more, upper-level managers and administrators spend an even greater proportion of their time in meetings than lower-line staff. Many administrators spend 50 percent of their time in meetings which, if wasted, diminishes their abilities to manage their organization.[1]

The importance of meetings, however, is well-established, and good meetings can produce a more-effective organization. Meetings assist organizations in solving problems, making decisions, planning, evaluating, sharing information, training, and improving morale. Why then do most of us generally want to avoid meetings or find ourselves wasting time in them? The reasons are many, but there are things that managers and leaders can do to improve their meetings.

Objectives

The leader must set the objectives for the meeting in advance. If there are no objectives or purposes, then there should be no meeting. *Too many organizations meet to meet.*

Participants

The value and success of any meeting is threatened if too many people are present. As Robert Townsend in *Up the Organization* says, "Generally speaking, the fewer [the participants] the better."[2] Between 4 and 7 people is ideal; 10 is tolerable and 12 is the outside limit. Keeping in mind the extent to which you have control over the members who can attend your meeting, use the following rules when selecting participants.

1) Include anyone who the meeting may affect positively or negatively. This will help defuse later morale problems when the staff believes that policies were forced upon them with no explanation or opportunity for input.
2) Include those who must be included because of their title or for "political reasons." Be sure to give these people the chance to decline coming to the meeting, since many times they would rather not attend anyway.
3) Select the best expert when inviting guest speakers or when covering new procedures. If your organization is changing or revising forms, for example, choose someone from the forms committee or someone who worked on the revisions to be present at the meeting.
4) Always try to include those "decisionmakers" who have the potential to resolve directly a problem or goal that will be discussed in the meeting.

Preparation

Preparation is in many ways the key to an effective meeting. When planning a meeting, consider four elements—time, agenda, location, and cost.

The *time* spent in a meeting should be limited. Very little is achieved in a business meeting after 2 hours.[3] Usually 1½ hours is sufficient time to consider all that is on the agenda.

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Ms. Brown

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The *agenda* is the most important piece of paper that will be used in the meeting. Properly managed, it has the potential to speed up and clarify a meeting. The main problem with agendas is that they are unnecessarily vague and brief. An agenda item, such as office communications, could mean anything from computers, to new telephone installations, to the routing of inner-office memos. The agenda should be as specific as possible. It is better to give too much rather than too little information on the agenda.[4] Also, circulate the agenda and necessary background information 2 or 3 days before the meeting, but not too far in advance or the less organized members will forget to bring it or lose it.

When writing the agenda, keep in mind that the beginning of the meeting is more lively and creative than the end. If an agenda item needs a great deal of mental energy, place it earlier on the agenda. Agenda items should also be placed in proper sequence, combining those items that are related.

The *location* of a meeting can have a positive or negative effect on the participants. The room should be comfortable and free from interruptions. Larger organizations could use a central meeting site or perhaps rotate the meeting sites so that a few participants will not always travel great distances. Be sure that all equipment needed for the meeting is available.

Meetings *cost* money. Seven to 15 percent of any organization's budget is spent directly or indirectly on meetings.[5] Hidden costs of meetings include "down time" for staff, salaries for those present, mileage costs, as well as the costs of damaged morale if the meeting goes badly. While the losses are not itemized on the agency's budget statement, they are there nevertheless.

There are times when memos/letters, telephone calls, personal visits, or delegation of duties can effectively take the place of a meeting. Finally, if the need to have a meeting disappears, cancel the meeting!

Atmosphere

All meetings have an atmosphere; unfortunately, the atmosphere of many is bad. One way to improve the atmosphere is to *begin all meetings on time*. Latecomers will soon learn to be on time, and punctual staff members will not be penalized by having to wait for the meeting to start.

Another method in improving the atmosphere is to announce good news at the beginning of the meeting. Also keep in mind that the group leader has a major impact on and a responsibility for setting the atmosphere,[6] which will be addressed later in the article under "leadership."

The atmosphere in a meeting can also be improved by adhering to the agenda items as closely as possible. This will avoid leaving the more important agenda items until the end of the meeting when there is no time left to discuss them. *Finally, end the meeting on time.*

Followup

Minutes should be recorded while the meeting is in progress and later distributed to all who attended the meeting. Good minutes include the following:

1) Time, date, and location of the meeting;
2) The name of all present and absent;
3) All agenda items discussed and all decisions reached. If you agree on some action, record and underline the name of the person responsible for the assignment;
4) The time at which the meeting ended; and
5) The date, time, and place of the next meeting.

Leadership

So far, this article has concentrated on what the leader of a meeting needs to do before and after a meeting. Another major responsibility is to actually run the meeting. As stated earlier, it is important to follow the agenda. The agenda will keep the meeting running smoothly and help control each topic area. As the leader, remember not to dwell on trivial items. If the less important things are addressed quickly, more time will be available to spend on the pressing problems or goal areas.

Time wasted during a meeting is costly and usually occurs because of the interaction among group members and the leader. There are certain individual personalities that emerge in meetings which waste time and limit productivity. The leader needs to control the group's interaction while focusing on the purpose of the meeting. The following personalities may be disruptive, and the leader is responsible for recognizing and controlling them:

—*Rambler*—This person talks about everything except the subject and uses far-fetched analogies. When the person stops for breath, thank him/her, refocus attention by restating the relevant points, and move on. As a last resort, look at your watch, and in a friendly manner, indicate that the group needs to get back on the subject.

—*Personality Clash*—When two or more members clash, they can divide your group into factions. It's important to emphasize points of agreement and minimize points of disagreement. Draw attention to objectives or bring a more neutral member into the discussion. If this fails, frankly ask that personalities be omitted.

—*Obstinate*—This person just won't budge, hasn't seen your point, and is stopping the progress of the meeting. Throw the member's view to the group and have them straighten him/her out. Say that time is short and you'll be glad to discuss his/her view later and ask that the group's viewpoint be accepted for the moment.

—*Won't Talk*—This member may be bored, indifferent, timid and insecure, or feel superior. Your action will depend on what is motivating the person. You can usually arouse his/her interest by asking for an opinion in a supportive manner.

—*Overly Talkative*—He/She may also be exceptionally well-informed and anxious to show it or just naturally wordy. Don't be embarrassing or sarcastic. Ask some difficult questions or interrupt with, "That's an interesting point and let's see what the group thinks of it." In general, let the group take care of him/her as much as possible.

—*Side Conversation*—The conversation may be personal, may be related to the topic, or totally unrelated to the topic. Side conversations are distracting, but don't embarrass those members talking. You may, though, call one by name and ask an easy question or for an opinion on the last remark made.

—*Inarticulate*—This member has ideas but lacks the ability to put thoughts into proper words. He/She may need help to clarify his/her ideas. Don't say, "What you mean is this." Rather, say, "Let me repeat that," and then put the thought into better language. Twist his/her ideas as little as possible but have them make sense.

—*Definitely Wrong*— Sometimes a member comes up with a comment that is obviously incorrect. Say, "I can see how you feel," or "That's one way of looking at it," or "I see your point and. . . ." This must be handled delicately.

Conclusion

This article has attempted to provide ideas on setting objectives and preparing for a meeting. Your style of leadership and communication will also affect the group's interaction and productivity. The Xerox Corporation has summarized the rules of conducting effective meetings through the following *Ten Commandments for Meetings*:

1) Thou shalt not meet if the matter can be resolved by other means.
2) Thou shalt make the purpose of each meeting known to the participants.
3) Thou shalt invite to the meeting only those participants whose presence is needed.
4) Thou shalt start at the time announced.
5) Thou shalt stop when it is right to do so.
6) Thou shall not run beyond the scheduled time for ending the meeting.
7) Thou shouldst organize the agenda items in proper sequence—combining those that are related.
8) Thou shalt keep minutes of all meetings.
9) Thou shouldst prepare in advance for the meeting so as not to waste everyone's time.
10) Fear not to cancel if need disappears.[7]

Footnotes

[1] Michael Doyle and David Strauss, *How to Make Meetings Work* (Washington, DC: Wydin Books, 1976), p. 4.

[2] Robert Townsend, *Upon the Organization* (New York: Alfred A. Knopf, Inc., 1970), p. 107.

[3] B.Y. Auger, *How to Run More Effective Business Meetings* (New York: Grosset and Dunlap, 1964), p. 32.

[4] *Meetings Bloody Meetings* (Xicom, Inc., 1974), an excellent training film in which an inefficient chairman dreams he is taken to court for conducting ineffective meetings. From the evidence presented, the viewer learns to prepare for meetings, inform others of meetings, plan the sequence of meetings, control the discussion during meetings, and record decisions made at meetings.

[5] Doyle and Strauss, supra note 1, p. 4.

[6] Auger, supra note 3, p. 60.

[7] Reprinted with permission of Xerox Corporation.

Interrogation

Post Miranda *Refinements*

(Conclusion)

"...interrogation can just as easily be done by conduct as words, and caution should be the guiding principle employed to insure the confession obtained will be admissible in court."

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal advisor. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

Part I of this article outlined the legal importance of "interrogation" by reviewing the rules governing custodial interrogation. It also began an analysis of categories of cases concerning what is and is not "interrogation" following the Supreme Court's definition of that term in *Rhode Island* v. *Innis* as either express questioning or its functional equivalent.[60] Part I concluded that general on-the-scene questioning was not deemed to be interrogation, nor was questioning normally attendant to arrest and custody.

This part of the article will complete the discussion of the meaning of interrogation and then discuss the Supreme Court's recent decision involving a public safety exception to the *Miranda* rule which governs custodial interrogations.

Inculpatory Statements in Response to Police Comments

Many defendants have provided incriminating statements which appear to have been made in response to something a police officer has said. In those cases, the police statements were not in the form of direct questions, but rather, can be subdivided into the following categories: 1) Furnishing the accused *Miranda* warnings, 2) comments reflecting an opinion of the officer concerning the defendant or the defendant's guilt, 3) a reference to some investigative step which the police have employed or will employ, or 4) a general, nonspecific conversation with the defendant. In response to each, the defendant has provided an incriminating statement or admission and later argued that the police officer's comments were the equivalent of interrogation, rendering the admission or statement inadmissible. Each of these categories will be discussed in turn.

Occasionally, a defendant will make an incriminating statement during or immediately following the advice of *Miranda* rights. Then, in an attempt to prevent that statement from being used against him, the defendant claims that *Miranda* warnings alone constitute interrogation. Such arguments have been unsuccessful. For example, in *United States* v. *Johnson*,[61] the defendant was arrested following his sale of a substance thought to be cocaine to an undercover officer. In fact, the substance was not cocaine but a substituted

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white powder. After his arrest, the defendant was taken to the police station and advised of his *Miranda* rights. Immediately thereafter, he asked why he was being arrested, since the substance he had sold to the undercover officer was not a controlled substance. That statement was subsequently offered into evidence in the resulting criminal fraud trial over the defendant's objection that *Miranda* warnings themselves constitute interrogation. The court overruled the objection, holding that the *Miranda* warnings are not a form of interrogation.

Just as *Miranda* warnings alone do not constitute interrogation, neither does an officer's inquiry as to whether a defendant understands and is willing to waive those rights. Thus, a defendant's response that he understood his *Miranda* rights may be admissible to show that he was thinking clearly immediately after the commission of the crime, and therefore, was not insane. "It borders on absurd to characterize an inquiry into whether a defendant understands his *Miranda* rights as an 'interrogation' justifying exclusion," since there is no way the officer could reasonably have known the defendant's response would undermine an insanity defense.[62]

A more difficult question is raised when a police officer provides his own opinion of the defendant or the defendant's guilt. Are such comments interrogation? Should the officer reasonably anticipate such personal comments will elicit an incriminating response? The cases deciding this issue do not provide a uniform answer.

Two cases illustrate the contrary results reached where officers offered a personal opinion of the defendant. In *United States* v. *King*,[63] a defendant was arrested and lawfully interrogated concerning his involvement with counterfeit credit cards. Later, he was interrogated again by detectives regarding a murder. During that second interrogation, one detective referred to the defendant as "stupid." Following the interrogation, while the defendant was being transported to the jail, the same detective again occasionally referred to the defendant as "stupid." Objecting to being called "stupid," the defendant turned to the other detective and said, "Tell him that I am not a bad guy, I am not into violence. I am not a violent person. You know me, I am into plastic and credit cards, but I am not into any violence. I never hurt anyone in my life."[64] The court permitted that statement to be used in evidence against the defendant, since "[t]his name-calling is not 'interrogation' within the meaning of *Innis*."[65]

In contrast, a court found similar name-calling to be the equivalent of interrogation in *United States* v. *Brown*.[66] There, the defendant contested the admission into evidence of the statements he had made to a police officer concerning his activities involving the sale of narcotics. The defendant was successful in doing so when he convinced the court that the police officer had taunted him with being a "pimp and doper" who "sells dope to little black children."[67] The court concluded that the police officer's name-calling "conduct was designed and reasonably likely to evoke response in kind, damaging . . . and quickly recorded . . . for later use."[68] It was interrogation.

Different results have also been reached in cases where the officer's opinion is directed at the defendant's guilt. For example, in *U.S. ex rel. Abubake* v. *Redman*,[69] a police officer, who had not yet obtained a valid

"... police officers should be careful if they engage in a conversation with a defendant who has not yet waived his Miranda rights or who has invoked one of his Miranda protections."

waiver of the defendant's *Miranda* rights, outlined the case which he had built against the defendant to let him know that he would not "be telling [the officer] anything new."[70] Thereafter, the defendant made a series of incriminating statements which he subsequently sought to exclude at trial. The court granted his motion to suppress, holding that persuading a defendant to confess by positing his guilt amounts to interrogation, impermissible here since no waiver had been obtained.

When confronted with a similar situation, another court, however, concluded no interrogation had taken place. In *United States* v. *Guido*,[71] a defendant was arrested, advised of his *Miranda* rights, and invoked his right to consult with an attorney. On the way to the courthouse, the defendant asked the agents why he had been arrested. The defendant was told that the arrest was based on an investigation which proved he was dealing in illegal narcotics and that he should consider cooperating instead of contesting the charges. Later, he was further told that the investigation had shown the defendant to have sold narcotics at a particular location—a candy store. The defendant replied, "Oh, ... Okay. I knew that one was trouble."[72] In declining to find that the agent's comments concerning the investigation and cooperation constituted interrogation, the court stated:

> "We do not accept the proposition that a discussion of cooperation is inherently a form of questioning for purposes of *Miranda*.... There is no indication that the agent's conduct was 'designed to elicit an incriminating response' ... or that [the defendant] was 'peculiarly susceptible' to an appeal to cooperate...."[73]

Because of the dissimilar results reached by courts trying to determine if personal opinions of officers or opinions as to guilt constitute interrogation, an officer would be well-advised to avoid making such comments, unless he is certain that interrogation is lawfully permitted.

In contrast to cases where personal opinions of an officer have been held to be interrogation, merely describing to the defendant potential investigative steps which will follow has been held not to be interrogation. In *United States* v. *Thierman*,[74] a defendant was arrested at his residence, given *Miranda* warnings, and invoked his right to consult a lawyer. Arresting officers commented to him that they would have to talk with the defendant's girlfriend, family, and other friends as part of their continuing investigation to recover stolen postal checks. When he heard that, the defendant made several damaging admissions which he later moved to suppress. In denying his motion to suppress, the trial court concluded that the officer's comments " 'merely reiterated the obvious' and did not amount to any interrogation, and were even less evocative than those in *Innis*."[75]

Illustrative of the last group of cases involving general, nonspecific conversations between an officer and a defendant is *United States* v. *Voice*.[76] Voice appealed his conviction for murder, challenging three admissions he had made to various law enforcement officers while in custody. The first such admission occurred when an officer who was transporting Voice to jail observed that he was nervous and attempted to calm Voice by telling him everything would be okay. In response, Voice said, "Leave me alone or I'll kill you too."[77] On another occasion in a police car, Voice heard a radio news report concerning a food stamp fraud and offered, "... they ask me why I did what I did. Abernathy has been ripping them off for years."[78] Lastly, an officer asked Voice a question concerning his epilepsy medicine, and Voice replied that his medicine caused his accidents, such as when "I killed Scottie."[79]

The court ruled that none of the comments to Voice was interrogation. All of the comments to Voice were in the context of general conversation. Voice's incriminating statements were spontaneous remarks. As such they were not obtained in violation of the *Miranda* rule. In fact, *Miranda* itself recognized that "[v]olunteered statements of any kind are not barred by the Fifth Amendment and their admissibility is not affected by our holding today."[80]

In summary, police officers should be careful if they engage in a conversation with a defendant who has not yet waived his *Miranda* rights or has invoked one of his *Miranda* protections. While some courts have concluded that such conversations do not constitute interrogation, there is not a sufficiently clear common thread among those cases which would provide reliable guidance to officers upon which they could govern their conduct. Accordingly, the best advice is to refrain from all but general, nonspecific conversations unrelated to the offense for which the person in custody was arrested.[81]

Nonverbal Interrogation

The final category of cases addressing interrogation focuses on the last portion of the Supreme Court's definition of that term in *Rhode Island*

"As long as an officer acts in accordance with normal arrest and booking procedures, that conduct will not be deemed the equivalent of interrogation."

v. *Innis*.[82] That definition included as interrogation "... actions on the part of police ... that the police should know are reasonably likely to elicit an incriminating response."[83] In these cases, the issue is not a question asked by the police or even a spoken word. Rather, some type of police conduct which causes a defendant to utter an incriminating response is at issue. This category can be subdivided into two areas—conduct which is routine police practice and conduct which is contrived by police outside of normal police procedures.

Illustrative of cases in which defendants have incriminated themselves in response to routine police practices is *United States* v. *Sullivan*.[84] There, the defendant had been arrested for his involvement in a drug trafficking operation using commercial courier services. After the defendant invoked his right to silence, he was taken to jail for processing. In his presence, a search and inventory of his personal belongings located a receipt from the commercial courier. As it was being noted on the inventory, the defendant said, "You found what you're looking for. That's all you need."[85] In denying the defendant's motion to suppress that incriminating statement, the court ruled that the inventory practice did not constitute interrogation and that the defendant's remarks were volunteered and spontaneous.

A similar result was reached in *United States* v. *Carroll*.[86] *Carroll* also shows the extreme arguments which a defendant will raise to prevent the admission into evidence of a confession. Here, the defendant was arrested for attempting to enter a federally insured bank with the intent to commit a felony therein. After his arrest, he was taken to be fingerprinted. The officer who took the prints smiled broadly at the defendant after examining the rolled fingerprints. This apparently unnerved the defendant who asked why the officer was smiling. Although the officer first resisted any further conversation, when the defendant persisted, the officer told him that certain fingerprints had been found at the bank. At that point, the defendant made a damaging admission concerning his presence at the bank.

In *Carroll*, the defendant argued that the officer's act of smiling during the fingerprinting process constituted interrogation. The court disagreed and stated:

> "That [the officer] smiled when he looked at Carroll's prints does not make [his] 'words or actions' the 'functional equivalent of interrogation' under *Miranda* v. *Arizona*."[87]

A contrary result was reached in a recent State case, however. In *State* v. *Quinn*,[88] the court ruled that showing a robbery suspect a copy of the Application for Statement of Charges which declared that several co-defendants had implicated the defendant as the instigator of the robbery was impermissible. Since the defendant had already invoked his right to counsel, the issue was whether that conduct, done without spoken words, constituted interrogation. In finding that interrogation had occurred, the court reasoned that though the Application for Statement of Charges was a routine, standard procedure, handing it to the defendant to read was an impermissible attempt to elicit an incriminating response. Accordingly, the statement given by the defendant after reading the document was properly suppressed.

The *Quinn* case is distinguishable from *Sullivan* and *Carroll*, since the officer in *Quinn* went beyond normal police practices, while the actions complained of in *Sullivan* and *Carroll* were entirely consistent with normal operating procedures. As long as an officer acts in accordance with normal arrest and booking procedures, that conduct will not be deemed the equivalent of interrogation.[89]

As to the second subcategory of cases, two Federal cases reflect the hazard of contriving some action in the hope that an incriminating response will follow. In *United States* v. *McCain*,[90] the defendant was stopped upon her entry into the United States on suspicion of being an internal drug smuggler. Prior to any *Miranda* warnings, she was given a booklet of newspaper clippings describing a number of tragedies suffered by those who chose to swallow containers of drugs in an attempt to smuggle the drugs into the country. The defendant's response to reviewing the newspaper clippings was to blurt out, "Yes, I do have narcotics in my body"[91] The court spent little time in deciding that the booklet was the equivalent of interrogation, saying:

> "The psychological intent of this collection of news stories, although consistent with the duties of customs officers, is obvious. Interrogation can take many forms. This is one of the most effective."[92]

In the second case, *U.S. ex rel. Church* v. *DeRobertis*,[93] the defendant, Mike Church, was arrested along with his brother Casey Church. Their oldest brother Kelly, an escapee from prison, was soon recaptured and lodged at the same jail. The Church parents became worried about Casey, the youngest and the only one who had never before been in jail. The parents encouraged Kelly to aid his younger brother. Kelly spoke to Casey, then asked the jailers to place Kelly in the same cell with Mike. While sharing the cell with Mike, who twice earlier had invoked his rights to silence and counsel in interviews with police, Kelly convinced Mike to make a full confession and exculpate brother Casey. Mike agreed and requested the police to return and ultimately provided them with a written confession. Mike later challenged the admissibility of the confession, claiming that the simple act of placing Kelly in the same cell with Mike was contrived by the police for the purpose of obtaining a confession and was, in fact, a form of interrogation.

The seventh circuit court of appeals rejected that argument. The court recognized that police conduct, as well as words, can be interrogation but "not everything leading a suspect to change his mind amounts to interrogation."[94] The court concluded that the controlling fact was that the police merely accommodated Kelly's request to share the cell with Mike and the confession given by Mike was, therefore, "a spontaneous, altruistic confession. It was the work of the Church family, not of 'custodial interrogation' within the meaning of *Miranda*."[95] The court made clear that had the police contrived the idea to put Kelly into Mike's cell to influence Mike to confess, the result may have been different. But here, the absence of any "potential trickery or overbearing by the police"[96] meant that no interrogation had taken place.

The potential for action or conduct equating to nonverbal interrogation is bounded only by the imagination of law enforcement. No easy rule can be adopted to guide what action is permitted and what action is not, since the facts of each case may cause different decisions in seemingly similar cases. It is important only to remember that interrogation can just as easily be done by conduct as words, and caution should be the guiding principle employed to insure the confession obtained will be admissible in court.

An Exception to the Interrogation Rule

The holding of *Miranda* v. *Arizona* was very clear that no custodial interrogation could take place unless preceded by specific warnings and a waiver. That rule, announced in 1966 was, in fact, stated in absolute terms: "As with the warnings of the right to remain silent and that anything stated can be used as evidence against him, this warning [of the right to consult with a lawyer and to have the lawyer present during questioning] is an absolute prerequisite to interrogation."[97] That barrier to interrogation stood unmoved until 1984 when the Supreme Court announced the first exception to the *Miranda* rule.

In *New York* v. *Quarles*,[98] the Supreme Court departed from its rigid rule and allowed into evidence a statement and evidence derived from that statement which was secured by interrogation prior to any *Miranda* warnings or a waiver. In *Quarles*, a women reported to police that she had just been raped by a man carrying a gun. She provided a physical description of her assailant and told the police that she had seen the man enter a nearby supermarket. Police drove to the store and observed the man inside at about the same time the man saw the officers. The man ran toward the rear of the store, pursued by an officer who had drawn his gun. When the officer found the defendant, he immediately ordered him to stop and put his hands over his head. The officer then frisked the defendant and discovered that the defendant was wearing a shoulder holster which was empty. After handcuffing the defendant, the officer asked where the gun was. The defendant nodded in the direction of some empty cartons and responded, "The gun is over there." Only after the gun, a loaded .38-caliber revolver, was recovered was the defendant advised of his *Miranda* rights.

The defendant was subsequently charged with criminal possession of a weapon, but the trial court refused to admit the statement concerning the location of the gun into evidence. The trial court ruled that defendant Quarles had been subjected to custodial interrogation without first being warned of his *Miranda* protections and refused to recognize an emergency exception to the *Miranda* requirements. On appeal, the Supreme Court reversed that decision and carved an exception to *Miranda* for questions reasonably prompted by a concern for public safety.[99]

This newly created public safety exception to *Miranda* arose from a balancing of interests test. The Supreme Court in *Quarles* first analyzed the reasoning of the *Miranda* Court. That Court had recognized that while fewer people would respond to police questions after being warned of their right to silence, the cost to society of not convicting some guilty suspects must be borne to uphold the fifth amendment privilege against self-incrimination. However, the *Quarles* Court found that in emergency situations in which protection of the public from immediate threats to safety is at stake, the balancing of interests weighs differently. "So long as the gun

"... 'doctrinal underpinnings of Miranda [do not] require that it be applied in all its rigor to a situation in which police officers ask questions reasonably prompted by a concern for public safety.' "

was concealed somewhere in the supermarket, with its actual whereabouts unknown, it posed more than one danger to the public safety...."[100] Because of this immediate threat to public safety, as opposed to a potential threat that a guilty man may be acquitted, the need for the prophylactic rule of *Miranda* must give way to the greater need to protect public safety. Thus, the "doctrinal underpinnings of *Miranda* [do not] require that it be applied in all its rigor to a situation in which police officers ask questions reasonably prompted by a concern for public safety."[101] Accordingly, even assuming the question concerning the location of the gun constituted interrogation, *Miranda* is inapplicable.

Conclusion

It is important for law enforcement officials to understand both the legal implications of "interrogation" and the meaning given this term by *Innis* and its progeny. Since 1966, law enforcement officials have been working under a rule which prohibits interrogation in custodial situations until a package of warnings designed to safeguard the privilege against self-incrimination has been administered and a valid waiver of those warnings obtained. Even after those warnings have been given and a waiver obtained, interrogation may still not be permitted if at some point the suspect elects to remain silent or to consult with an attorney.

Interrogation is a vital law enforcement technique. It may take the form of direct questioning to uncover a suspect's guilt, or it may be words or actions by police that are the functional equivalent of direct questioning, also aimed at detecting a suspect's guilt. Understanding this principle will enable the law enforcement officer to avoid impermissible interrogation and ensure the admissibility of confessions in a court of law. FBI

Footnotes

[60] 446 U.S. 291, 300-01 (1980).

[61] 516 F.Supp. 696 (E.D. Penn. 1981), *aff'd* 688 F.2d 826 (3d Cir. 1982).

[62] *United States* v. *Emery*, 682 F.2d 493 (5th Cir.), *cert. denied*, 459 U.S. 1044 (1982).

[63] 564 F.Supp. 25 (S.D.N.Y. 1982), *aff'd* 742 F.2d 1445 (2d Cir. 1984).

[64] *Id.* at 27.

[65] *Id*

[66] 720 F.2d 1059 (9th Cir. 1983).

[67] *Id.* at 1068.

[68] *Id.*

[69] 521 F.Supp. 963 (D. Delaware 1981), vacated on other grounds, 696 F.2d 980 (3d Cir. 1982); *aff'd* on remand in *United States ex rel.* Ahmad v. *Redman*, 599 F.Supp. 802 (D. Delaware 1984). *See also, Toliver* v. *Gathright*, 501 F.Supp. 148 (E.D. Va. 1980).

[70] 521 F. Supp. at 973. *See also, Henry* v. *Dees*, 658 F.2d 406 (5th Cir. 1981) (statement that the defendant had failed a polygraph test and a challenge to the defendant to "tell the truth" constitutes interrogation).

[71] 704 F.2d 675 (2d Cir. 1983).

[72] *Id.* at 676.

[73] 704 F.2d at 677. *See also, United States* v. *Gazzara*, 587 F.Supp. 311, 325 (S.D.N.Y. 1984).

[74] 678 F.2d 1331 (9th Cir. 1982).

[75] *Id.* at 1334.

[76] 627 F.2d 138 (8th Cir. 1980).

[77] *Id.* at 144.

[78] *Id.*

[79] *Id.*

[80] 384 U.S. 436, 478 (1966).

[81] It should be noted, however, that the Supreme Court in *Oregon* v. *Elstad*, 105 S.Ct. 1285 (1985), held that interrogation which takes place prior to effective *Miranda* warnings and a waiver is not an absolute bar to the admission of a subsequent voluntary confession obtained following a proper warning and waiver. However, that rule should not be used by police interrogators as a general practice.

[82] *Supra* note 21.

[83] Supra note 27.

[84] 544 F.Supp. 701 (D. Maine 1982), *aff'd* on other grounds 711 F.2d 1 (1st Cir. 1983).

[85] *Id.* at 706.

[86] 710 F.2d 164 (4th Cir.), *cert. denied*, 104 S.Ct. 526 (1983).

[87] *Id.* at 168.

[88] 498 A.2d 676 (Md. Ct. Spec. App. 1985). *See also, Kreijanovsky* v. *State*, 706 P.2d 541 (Okla. Ct. Crim. App. 1985).

[89] *See, United States* v. *Glen-Archila*, 677 F.2d 809 (11th Cir.), *cert. denied*, 459 U.S. 874 (1982).

[90] 556 F.2d 253 (5th Cir. 1977).

[91] *Id.* at 254.

[92] 556 F.2d at 254, n. 2.

[93] 771 F.2d 1015 (7th Cir. 1985).

[94] *Id.* at 1019.

[95] 771 F.2d at 1020.

[96] *Supra* note 94.

[97] 384 U.S. 436, 471 (1966).

[98] 104 S.Ct. 2626 (1984).

[99] *Id.* at 2632.

[100] *Id.*

[101] *Id. See also, United States* v. *Udey*, 748 F.2d 1231, 1240, n. 4 (8th Cir. 1984), *cert. denied*, 105 S.Ct. 3477 (1985); *United States* v. *Webb*, 755 F.2d 382, 392, n. 14 (5th Cir. 1985); *People* v. *Cole*, 211 Cal. Rptr. 242 (Cal. App. 1st Dist. 1985).

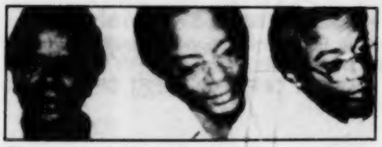
Announcement from the National Institute of Justice

The National Institute of Justice, the research branch of the U.S. Department of Justice, has put out a call for research in 1986 that will focus on controlling the serious offender, aiding victims of crime, enhancing community crime prevention, and improving the criminal justice system. The just-published *Sponsored Research Programs* outlines the specific NIJ research programs for which funds will be awarded in 1986 and provides application instructions and forms. For a copy of *Sponsored Research Programs*, write to:

National Institute of Justice/NCJRS
Box 6000
Rockville, MD 20850
ATTN: Program Plan

The phone number to call is 800-851-3420, or in Maryland and the Washington metropolitan area, 301-251-5500.

WANTED BY THE FBI



Photographs taken 1975 and 1977

Charles Lee Herron,

also known as Larry Brown, James Larry Butler, Lee Jones, D. A. Kimathi, Milo Ramsey, Bennie Leroy Smith, "Blood," "George," "Kimathi," "Larry," "Shorty." N; born 4-21-37 (not supported by birth records). Covington, KY; 5'7"-5'8"; 140-150 lbs; sldr bld; blk hair, brn eyes; dk comp; occ-clerk, home repairs; scars and marks: scar corner of left eye, scar on left wrist, gap between upper front teeth; remarks: usually wears short to medium Afro hairstyle, sideburns to earlobes and heavy eyebrows, may have head shaven, be clean shaven or may have straggly goatee, wears wire-rimmed glasses, always wears sunglasses when outside, left-handed, generally wears a hat, khakis or blue jean-type clothing, has exaggerated walk described as a strut, may even affect a limp, has high degree of interest in pickup basketball and reportedly frequently plays at school yards and public courts, enjoys sports cars, avid chess player, and has a record of ignored speeding violations. Wanted by FBI for INTERSTATE FLIGHT—MURDER; ASSAULT TO COMMIT MURDER.

Right ring fingerprint

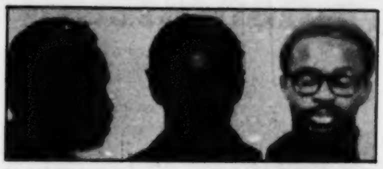
NCIC Classification
DOPO13PO10DI1214PI14

Fingerprint Classification:
13 O 29 W OOO 10
I 18 U OOI

I.O. 4163
Social Security
Numbers Used: 402-44-7920; 253-70-8270
FBI No. 313 926 G

Caution

Herron is being sought for the shooting murders of two police officers wherein high-powered rifles were used. He may be accompanied by William Garrin Allen II, FBI Identification Order 4640, Stephen Correlus Parker, FBI Identification Order 4650, and Ralph Canady, FBI Identification Order 4644. Consider armed and extremely dangerous.
FBI TOP TEN FUGITIVE



Photographs taken 1971 and 1968.

Ronald Stanley Bridgeforth,

also known as Benjamin Matthew Bryant.
N; born 8-23-44, Berkeley, CA; 6'; 185–205 lbs; hvy bld; blk hair; brn eyes; med comp; occ-teacher; scars and marks: 3" scar left wrist and forearm, scar right heel. Wanted by FBI for INTERSTATE FLIGHT—ASSAULT ON A POLICE OFFICER.

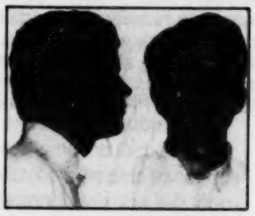
Right thumbprint

Fingerprint Classification:
8 M 25 W MIO REF: 29
S 22 U IOI 11 $\overline{22}$

I.O. 4515
Social Security Numbers Used:
568–92–3698; 547–64–2939
FBI No. 568 064 G

Caution

Bridgeforth allegedly engaged police officers in gun battle. Consider armed and dangerous.



Photographs taken 1969

Silas Trim Bissell,

also known as "Trim."
W; born 4-27-42, Grand Rapids, MI; 5'10"–5'11"; 130–135 lbs; sldr bld; brn hair; grn eyes; med comp; occ-teacher; scars and marks: appendectomy scar; remarks: may wear sideburns and beard. Wanted by FBI for CONSPIRACY; DESTRUCTION OF GOVERNMENT PROPERTY; NATIONAL FIREARMS ACT.

NCIC Classification:
24TT1218162056091609

Fingerprint Classification:
24 L 1 T OO 16 Ref: R
L 1 R IIO $\overline{R}$

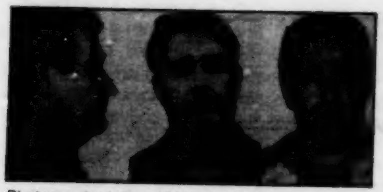
I.O. 4401
FBI No. 820 593 G

Right index fingerprint

Caution

Bissell reportedly has been associated with persons who advocate use of explosives and may have acquired firearms. Consider dangerous.

WANTED BY THE FBI



Photographs taken 1984 and 1983

Joseph William Dougherty,

also known as Donald Milford Baker, J.C. Blackwell, Richard J. Carson, James C. Dunn, John Jordan, Noel Roger Noe, Richard Rundel, Robert Troy, Paul Lee Vandervort, and others. W; born 8-25-39 (true date of birth) 10-12-39, 12-3-40, 10-10-42, 10-10-45, Philadelphia, PA; 6′ 2″; 230 lbs.; heavy bld; blk (greying) hair; blue eyes; ruddy comp; occ-bartender, laborer, welder; scars and marks: scar on back of right hand; bullet wound scar on left knee; tattoo of "Joe" on upper left arm; remarks: may be clean shaven or wears a full beard. May be accompained by Terry Lee Conner, FBI Identification Order 4997, WHO IS ALSO WANTED BY LAW ENFORCEMENT AUTHORITIES. Wanted by FBI for BANK ROBBERY; CONSPIRACY; ASSAULT ON A FEDERAL OFFICER; THEFT OF GOVERNMENT PROPERTY; ESCAPED FEDERAL PRISONER.

Right middle fingerprint

NCIC Classification:

16DO19PM15191617PI14

Fingerprint Classification:

$$\frac{16\ \mathrm{S}\ 25\ \mathrm{W}\ \mathrm{OOM}\ 15}{\mathrm{L}\ 2\ \mathrm{U}\ \mathrm{OOI}}\quad \text{Ref: }\frac{25}{10}$$

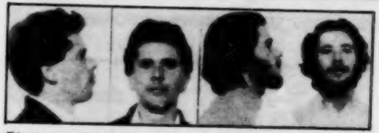
I.O. 4996

Social Security
Numbers Used: 171-30-0180; 309-42-4567

FBI No. 746 736 D

Caution

Dougherty, an escapee from custody, is being sought for a series of bank robberies in which hostages were taken. He is reportedly armed with both handguns and automatic weapons and has vowed not to be taken alive. An alleged narcotics user, he should be considered armed and dangerous.
FBI TOP TEN FUGITIVE



Photographs taken 1968 and 1969

George Ernesto Lopez,

also known as Lyon Bonny, Juan Gomez, John Martin Solano.
W; born 12-5-49, New Orleans, LA; 5′9″-5′10″; 145–155 lbs; med bld; blk hair, brn eyes; med comp; occ-laborer. Wanted by FBI for INTERSTATE FLIGHT—MURDER, ASSAULT WITH INTENT TO COMMIT MURDER, BURGLARY.

Fingerprint Classification:

$$\frac{18\ \mathrm{O}\ 26\ \mathrm{W}\ \mathrm{OOO}}{\mathrm{M}\ 22\ \mathrm{U}\ \mathrm{IOO}}\quad \text{Ref: }\frac{18}{22}$$

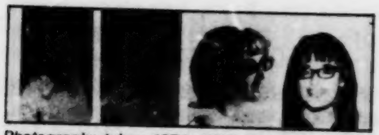
I.O. 4352

FBI No. 527 954 G

Left index fingerprint

Caution

Lopez should be considered armed and dangerous.



Photographs taken 1974, 1970 and unknown

Katherine Ann Power,

also known as Priscilla Coe, Claire Johnson, Maureen Sheila Kelly, May Kelly, May S. Kelly, Jane Pascarella, Kathy Power, Katherine Ann Powers, Kathy Powers.
W; born 1-25-49, Denver, CO; 5′; 145–150 lbs; stocky bld; light brn or dark bld, (may be dyed blk) hair; hzl eyes; med comp; occ-cook, receptionist, waitress; scars and marks: pockmark on left cheek, appendectomy scar, large scar on abdomen; remarks: may have short manish-cut hairstyle; wears glasses or contact lenses. Wanted by FBI for INTERSTATE FLIGHT—MURDER; THEFT OF GOVERNMENT PROPERTY; BANK ROBBERY.

I.O. 4402

Social Security
Numbers Used: 522-74-2089; 003-46-5275

FBI No. 545 574 H

Right index fingerprint

Caution

Power is being sought in connection with a bank robbery in which a police officer was shot to death. Power should be considered armed and extremely dangerous.

Change of Address

Not an order form

FBI
Law Enforcement Bulletin

Complete this form and return to:

Director
Federal Bureau of
Investigation
Washington, DC 20535

Name

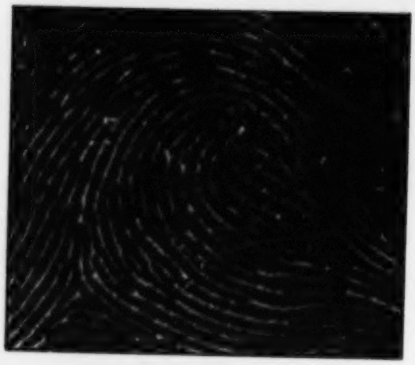
Title

Address

City State Zip

Questionable Pattern

Two separate loop formations appear in the central area of this impression; however, the delta for the loop on the left is located on the recurve. The small dot appearing over the top of this recurve cannot be considered as a delta since it is not as thick as the average surrounding ridge. The pattern is classified as a loop. A ridge count of 13 is obtained by applying ridge counting rules pertaining to interlocking loops. A reference to a double loop whorl is required since subsequent inking could result in greater thickness of the dot appearing over the left looping ridge. The tracing would be outer.



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Change of Address

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Law Enforcement [illegible]

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April 1986

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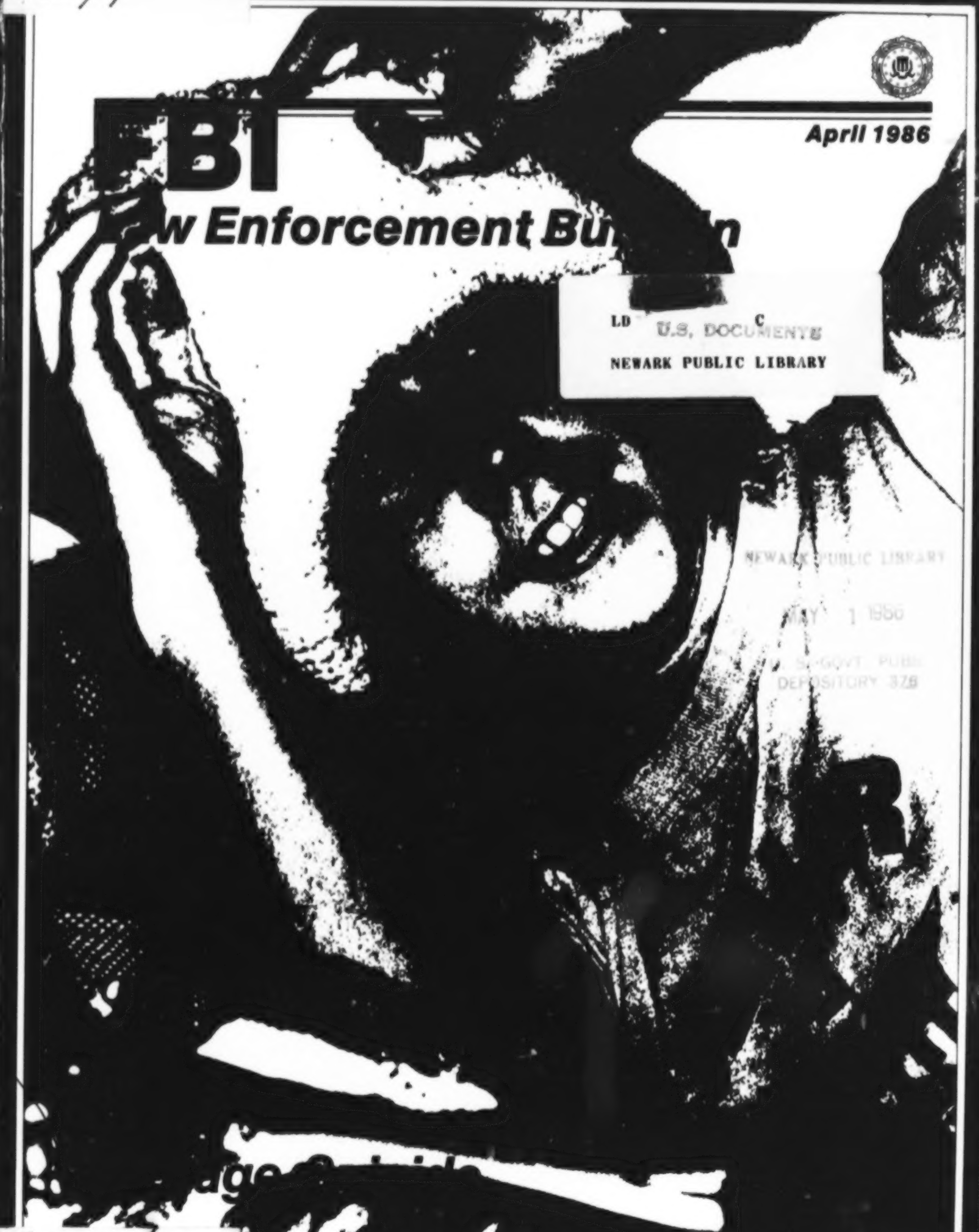

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FBI
Law Enforcement Bulletin

United States Department of Justice
Federal Bureau of Investigation
Washington, DC 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 6, 1988.

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Agency Anniversary Years

A Tool for the Progressive Law Enforcement Administrator

By
SGT. DOUGLAS R. RILLING
Suffolk County Police Department
Hauppauge, NY

"... progressive law enforcement administrators are viewing anniversary years as a tool to unite their members in common goals and interests, while enhancing the agency's image to the public it serves."

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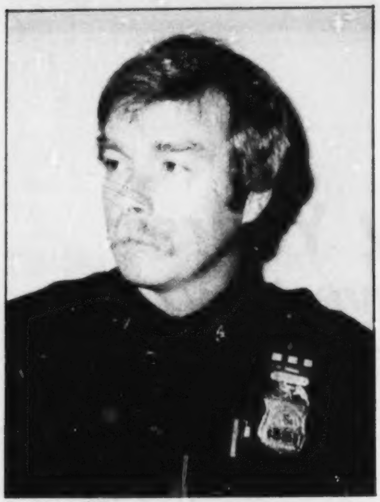
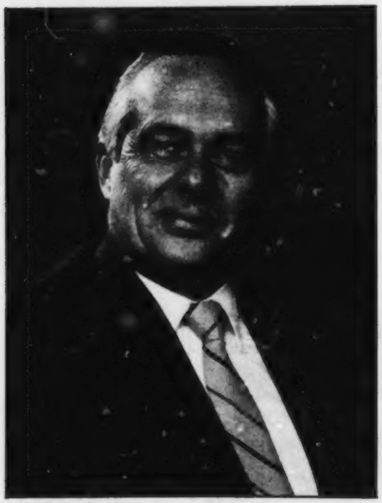


Sergeant Rilling



DeWitt C. Treder
Commissioner

Each year, hundreds of law enforcement agencies across the Nation have anniversaries that are significant to their particular organization. Many agencies choose to let these dates pass without comment, not seizing an opportunity for possible agency-wide improvement. But more and more of today's progressive law enforcement administrators are viewing anniversary years as a tool to unite their members in common goals and interests, while enhancing the agency's image to the public it serves. The task of maintaining or improving a high degree of morale and esprit de corps rests primarily with the chief executive of any agency. The way he projects his views to his membership is an important factor which weighs heavily on how his subordinates view the agency. If the chief openly shows a positive attitude about his position and his department, this feeling of good will permeates the rank and file of the organization.

One such agency which chose to take advantage of an anniversary in 1985 was the Suffolk County, NY, Police Department, which was formed on January 1, 1960, by a merger of 5 town and 6 village police departments in western Suffolk County, NY. Originally comprised of 619 sworn officers, the department now has a current strength of over 2,700. Only 20 miles east of New York City, the police district covers some 900 square miles of suburbia, including over 400 miles of Long Island's shoreline and barrier beaches.

In the spring of 1984, the police commissioner, aware that the department's silver anniversary was approaching, set up a small task force of officers, who were assigned the task of collecting the first 25 years of Suffolk County police history for future preservation. They were also asked to submit ideas and ways of bringing special attention to the occasion from both inside and outside the department.

The first step was to let the members of the Suffolk County Police know that the department was interested in the preservation of its heritage and the fact that a significant anniversary was due. The department's internal magazine and command bulletins and newsletters were used to ask the members, especially those who became county police officers on January 1, 1960 (when the towns and villages merged), to go through scrapbooks, closets, attics, and basements for items of interest. Retirees were also tapped as a possible source of law enforcement memorabilia. As a result, artifacts started pouring in, as did telephone calls from people who wanted to contribute time and energy to preserving the police history of their department.

On January 25, 1985, the department opened a museum consisting of several interesting law enforcement displays depicting the department's formative and early years. In addition to mannequins adorned in original town and village uniforms, weapons, breath-test equipment, awards and decorations, and police badges and shields were proudly displayed. A 10-minute, continuous-play video cassette on the formation and history of the agency was also made. The museum now conducts tours by appointment to organizations such as Boy Scouts, school classes, and senior citizens. It is also open 2 hours a day to the general public.

While the museum was under construction, research was conducted on ways of creating an item of departmental history that officers who have served during the first 25 years could own and cherish as a memento of their chosen profession. Selected was a 25th anniversary commemorative revolver with a stainless steel finish. Unlike most law enforcement commemoratives, the Suffolk County Police 25th Anniversary revolver included in its presentation case an engraveable pewter facsimile of the department's shield and a department anniversary award breast bar.

The anniversary breast bar was awarded to every sworn member of the force, regardless if the member chose to participate in the anniversary revolver program. The bar was created in the same basic configuration as other departmental award bars, with the silver dates 1960 and 1985 in blue ceramic separated by a brushed silver center. By special order of the commissioner, the anniversary breast bar became an authorized part of the uniform for the anniversary year, after which it became the property of the recipient as a token of appreciation of his or her service to the agency.

Civilian support personnel play a major role in the successful operation of any law enforcement agency. This is true of those in Suffolk County, NY. For presentation to them, the department designed and distributed a "civilian service" lapel pin in the department's logo with the dates 1960–1985 appearing in silver numerals on the face. These also became the property of the recipient in appreciation of continued efforts and contributions to the department.

Because of restrictions placed on who could purchase an anniversary revolver, as well as State laws governing handgun sales, the task force also sought to create a unique item of commemoration which would not only be available to sworn officers of the department but also to auxiliary police and supporters of law enforcement. The suggestion that a special folding utility knife with black sheath be designed to fulfill that need gained extra merit, since on January 1, 1985, New York State became the first State in the Nation to enact into law a mandatory seat belt use requirement. A high-quality knife would provide a means of cutting the seatbelts of victims of accidents where normal release mechanisms failed.

POLICE DEPARTMENT
CIVILIAN
SERVICE
SUFFOLK COUNTY, N.Y.

To promote a team spirit and feeling of belonging, the dedication and service of the civilian support personnel was recognized by the creation of a civilian service pin which was presented to all civilian employees who served during the anniversary year. Photo: S. Glass

Public Support

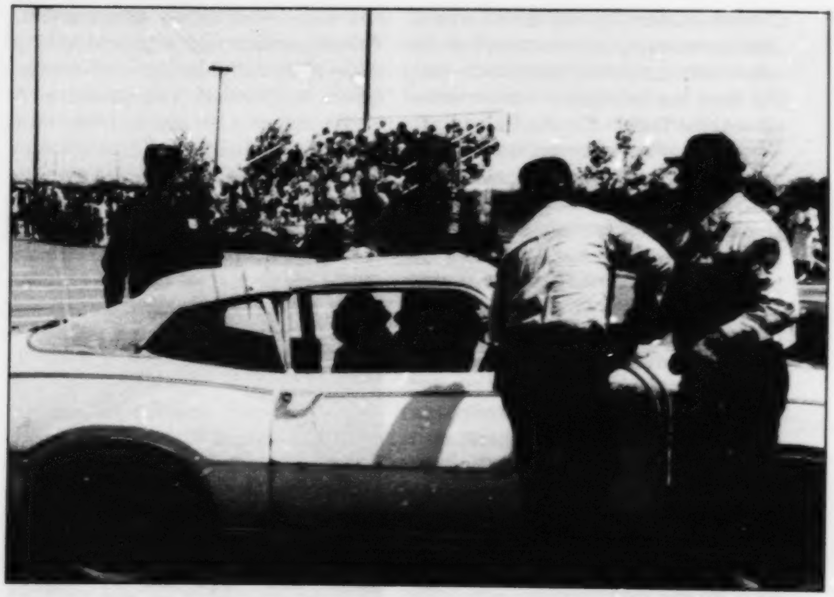
Once employees were aware of what the department was trying to accomplish, the next logical step was to enlist public support. The local news media played a major role by featuring old photos, along with a story on preserving local law enforcement history. For example, the department wanted to restore a patrol car from 1960, their first year in operation as a unified police agency. The public was asked to supply any information it could on a 1960 Plymouth sedan for restoration. Several responses came in, and eventually, a vehicle was purchased and another was donated for spare parts. Americans have always had a love affair with the automobile and the idea of restoring a 25-year-old vehicle received much attention, with a local auto body shop donating the time and materials to refinish the outer body to original paint schemes, using old photographs as a guide.

The completed vehicle now stands on display in front of police headquarters in Yaphank, NY. The car is also available for public relations functions, and in its first summer of operation, led several local parades and appeared at auto shows and historic events within the county. It instantly attracts onlookers and the radical fin designs have the school-aged youngsters affectionately nicknaming it the "Batmobile." Its popularity has grown so rapidly that its appearances are now done only by advanced reservation.

Modern-day electronics allow the vehicle to carry on a two-way conversation with the curious children. An officer with a remote transmitter and receiver can flash the roof and headlights, sound the siren, and operate the windshield wipers from a secreted position some 100 feet away.

Any law enforcement agency planning to open its doors to the public can expect a good response from citizens. Uniformed police officers explaining the use of law enforcement equipment are of great interest to the average person. In Suffolk County, the equipment display and simulated emergency response demonstrations were coordinated with National Police Week. Local radio and television stations, as well as daily and weekly newspapers, were of great assistance in getting the word to the public. The

"Special attention to milestones in law enforcement history can have positive effects among the members of the department."



Crowds watch from portable grandstands as emergency service officers remove trapped victim by cutting off the vehicle's roof in a simulated rescue operation during the anniversary celebration. Photo: J. Stanley

county's Office of Public Education supplied a list of mailing labels to alert the schools of the displays and demonstrations. A nearby military installation loaned large tents to provide shade and a place to enjoy a picnic lunch, and portable grandstands provided additional seating and improved viewing of emergency service rescue operations, helicopter evacuation procedures, K-9 tracking and apprehension abilities, and emergency vehicle handling. Each unit within the department was able to use the time between demonstrations to explain its own particular function, distribute brochures and literature, and answer a continuous flow of questions from interested onlookers.

There are certain considerations which agencies must address when planning to invite the public to its facilities. Sufficient restrooms, seating, and refreshments should be available in order for the public to appreciate their visit. Also, the demand for souvenir-type items was extraordinary. Although items like baseball caps, T-shirts, lapel pins, and coffee mugs were made available, supplies quickly dwindled. The degree of disappointment displayed by Suffolk residents when the keepsake items were depleted demonstrated that many people expect and appreciate the opportunity to bring a reminder of their visit home with them.

The goal of preserving law enforcement history was further enhanced as general public awareness grew. Countless items of historic value from the past were donated by people outside the law enforcement field. Many had parents and grandparents who were police officers or constables. They were glad to donate their memorabilia to a place where it would be appreciated and displayed with pride. One such donation included the police commissioner shield carried by Theodore Roosevelt when he served with the New York City Police Department. With an ample supply of donated historic law enforcement equipment and the money earned in interest while awaiting delivery of the commemorative revolver, the Suffolk County Police Department Museum was created without cost to the department or the taxpayer.

Benefits To The Agency

The items discussed above generate interest regardless of the rank or assignment of the particular member. The historic contributions of the 30-year patrolman or the deputy chief carry equal weight when attempting to preserve them for future reference. Contact between police and public in an atmosphere where time is available to explain the various functions of the agency's units does much to improve public relations. The presentation by the agency of items of appreciation, such as the anniversary award bar and civilian service pin, to its members does much to create a "team spirit" among its workers and lays the groundwork for long term improvements in employee relations at a small cost to the agency. Although difficult to measure precisely, a sincere effort on the part of the agency to renew loyalty and motivation in its employees can lead to a decline in absenteeism, increased productivity, and a general positive attitude throughout the law enforcement field.

Hands-on viewing of police equipment gives spectators a rare opportunity to ask questions of the officers who actually operate it. Photo: J. Stanley

Some of the attitude improvements are almost immediate in nature. For example, some officers who were scheduled to give equipment demonstrations and answer questions about their units were initially somewhat apprehensive and skeptical at the onset of the program. By the end of the week-long celebration, these same officers were quick to volunteer for the same assignment, should it ever again be made available in the future. Several suggested the "open house" policy and demonstrations be held annually each spring. Many of the individual units have been requested to give public relations talks and demonstrations as a result of the reception they were given during the agency's 25th anniversary program in May 1985.

A View Toward The Future While Recapturing The Past

As mentioned earlier, the support and enthusiasm of the chief administrator of the organization is the single most important aspect in the success or failure of such a program. In Suffolk County, not only did the support come from within the agency, but also from outside. A Suffolk County executive, a self-proclaimed history buff, provided additional support from the county in his dedication speech at the museum's opening ceremony. There are now plans under consideration to expand the floorspace of the museum and to recreate a circa 1925 police stationhouse with an on-site law library and historical research facility. The model stationhouse would feature an old cell block, brass rail-type, full-length ornate steel desk, and a circa 1900 6′ × 5′ concrete-lined steel safe. Items adding to the detailing of the project would include wooden desks, chairs and files, wooden plug-in type telephone switchboard with upright desk phones, and a gun locker featuring the famous Thompson submachine guns of the Roaring Twenties. The interior decorating would include tin ceilings, slow rotating ceiling fans, wainscoting, frosted glass doors, and green "Police" globe entrance lamps. Calendars, photographs, and wanted posters from that time would provide the final touch and enhance the atmosphere of that famous era.

In realizing that police work has traditionally been the subject of interest to the general public, the museum library and research center has the potential to become an even greater tourist attraction, as well as its obvious use to students of criminal justice. Perhaps most important, it demonstrates Suffolk County's commitment to preserving its law enforcement heritage as it continually moves toward the future.

Conclusion

Special attention to milestones in law enforcement history can have positive effects among the members of the department. Projects that were undertaken and targeted for completion during the anniversary year brought members of all ranks and assignments together as a cohesive and goal-oriented team. Talents and resources of the organization which had never before been tapped soon came to light. Seeing so many ideas becoming realities in just 12 short months brought great satisfaction to the members, while at the same time improving the channels of communication between the people of Suffolk County and its police department.

Long term goals of the department brought forth in general concepts generated spontaneous participation from the rank and file. General goals like "museum expansion" or "on-site research library" allows for input from all personnel. The staff officer in possession of items of historic interest or the patrol officer preparing to study for promotion can each view these future goals as personally affecting them.

Goals that were realized during the anniversary year can continue to serve the department long after the highlighted year is completed. In the Suffolk County example, the museum became a permanent part of headquarters, the 1960 patrol vehicle will continue to attract onlookers and lead parades, and the documentary film on the creation and formative years will be replayed to receptive audiences for years to come.

In summary, the net results of the 25th anniversary celebration of the Suffolk County Police Department was a general feeling of enthusiasm, pride, and accomplishment by the entire membership. FBI

State Crime Trends

Crime was up 7 percent or more in one of every four of the Nation's States during the first half of 1985, according to Uniform Crime Reporting figures. Comparisons of State-level semiannual Crime Index figures for 1984 and 1985 showed only Hawaii, West Virginia, and the District of Columbia with 7-percent or greater declines.

After reaching all-time highs, nationwide Crime Index levels began dropping in the second quarter of 1981 and continued to fall until the fourth quarter of 1984 when a 2-percent increase occurred. Led by States west of the Mississippi River and in the South, the overall increases continued in the first two quarters of this year, with all four geographic regions experiencing upturns for the 3-month period of April through June.

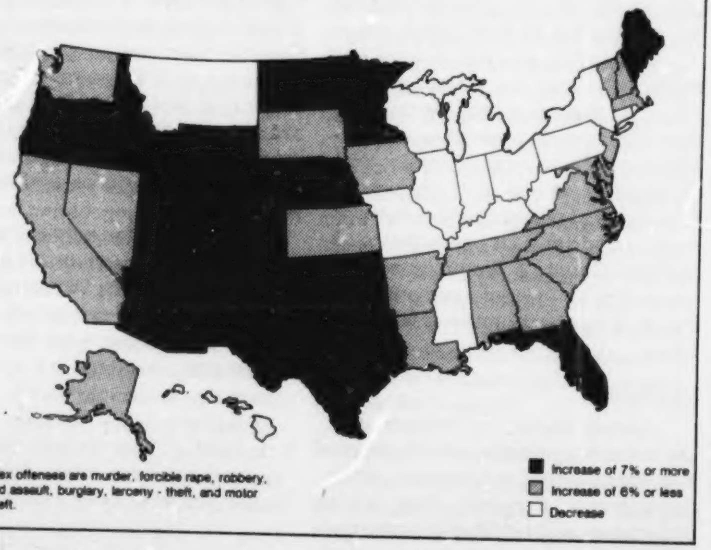
Crime Index Offenses
Percent Change January through June 1985 vs. 1984, Offenses Known to the Police

State	Crime Index Total	Violent[1] Crime	Property[2] Crime
Alabama	+ 1	+10	0
Alaska	+ 4	+ 1	+ 5
Arizona	+15	+22	+14
Arkansas	+ 4	+ 7	+ 3
California	+ 5	+ 6	+ 5
Colorado	+ 8	+ 9	+ 8
Connecticut	− 2	− 2	− 2
Delaware	+ 2	+ 2	+ 2
District of Columbia	−10	− 2	−12
Florida	+11	+ 9	+11
Georgia	+ 4	+ 6	+ 3
Hawaii	− 9	− 6	− 9
Idaho	+13	+ 9	+13
Illinois	0	0	0
Indiana	− 2	+ 2	− 2
Iowa	+ 5	+16	+ 5
Kansas	+ 1	+13	0
Kentucky	− 5	+12	− 6
Louisiana	+ 8	+ 3	+ 7
Maine	+ 7	+ 2	+ 7
Maryland	+ 3	+10	+ 2
Massachusetts	+ 6	+ 3	+ 6
Michigan	− 2	+ 8	− 3
Minnesota	+11	+29	+10
Mississippi	− 1	− 9	+ 1
Missouri	− 1	+ 7	− 2
Montana	− 2	0	− 2
Nebraska	+ 7	+15	+ 6
Nevada	+ 4	+ 3	+ 4
New Hampshire	+ 1	−24	+ 2
New Jersey	+ 5	+ 1	+ 5
New Mexico	+ 7	+ 9	+ 7
New York	− 2	− 3	− 2
North Carolina	+ 1	+ 4	+ 1
North Dakota	+ 9	−11	+ 9
Ohio	− 2	− 1	− 3
Oklahoma	+12	+ 2	+13
Oregon	+ 7	+10	+ 7
Pennsylvania	− 2	+ 2	− 3
Rhode Island	− 2	+10	− 3
South Carolina	+ 3	+ 6	+ 3
South Dakota	+ 3	− 3	+ 3
Tennessee	+ 2	+ 7	+ 1
Texas	+10	+ 8	+10
Utah	+15	+ 5	+15
Vermont	+ 2	+ 1	+ 2
Virginia	0	+ 1	0
Washington	+ 6	+12	+ 6
West Virginia	− 7	− 2	− 7
Wisconsin	− 1	+ 3	− 1
Wyoming	+14	+12	+15
U.S. Total	+ 3	+ 4	+ 3

[1] Violent crimes are murder, forcible rape, robbery, and aggravated assault

[2] Property crimes are burglary, larceny, and motor vehicle theft and exclude arson for this report

Crime Index Offenses
Percent Change
January — June, 1985 vs. 1984



Crime Index offenses are murder, forcible rape, robbery, aggravated assault, burglary, larceny - theft, and motor vehicle theft.

The accompanying table and chart show semiannual changes in the Crime Index for each of the 50 States and the District of Columbia.

Pre-Employment Polygraph Screening of Police Applicants

"The polygraph has proven to be one of the best aids available in the selection process for Florida Highway Patrol applicants...."

By
MAJ. BILLY DICKSON
Florida Highway Patrol
Tallahassee, FL

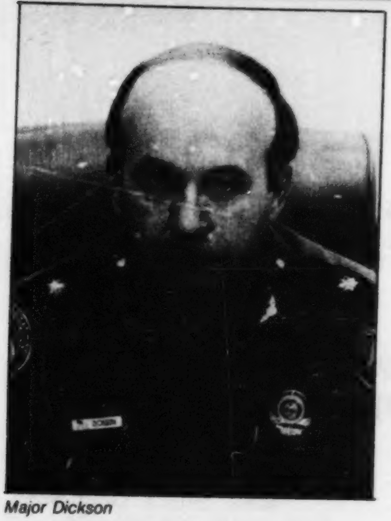
Polygraph examinations have become a very important part of the police applicant screening process and are used by law enforcement agencies throughout the United States. If properly administered, polygraph testing of police applicants as to their honesty and moral character is nondiscriminatory with respect to race, sex, color, religion, and national origin.

In June 1980, the Florida Highway Patrol started using the polygraph as an additional tool to help them select the best possible candidates for patrol officers. The polygraph was initially conducted after the completion of the background investigation; however, after an 18-month period, it was decided that the polygraph screening should be administered prior to the initiation of the background investigation in order to reduce the high rejection rate. This was prompted by the fact that background investigations have become less reliable in recent years. Background investigations conducted on long term residents of the State pose few problems. But when you consider the number of applications from out-of-State residents and today's transient society, such investigations tend to be less credible.

There are other areas of concern today that in the past were of no real consequence. The popularity of drugs is a well-known fact and must be adequately addressed when considering an applicant for police work. Likewise, since some criminal justice agencies do not accept nonserious arrest records for filing, applicants willing to falsify an application could be hired. In reality, an applicant with an unblemished record could have been arrested and convicted for *misdemeanor* crimes such as carrying a concealed weapon, possession of stolen property, larceny, gambling or bookmaking, illegal possession of drugs, or sexual crimes.

The Federal Privacy Act and Federal case law regarding liberty interests have also caused employers to be reluctant to divulge information that might even remotely place them in a position of liability. Rather than face the possibility of complaints or law suits, the employers will either refuse to answer inquiries or gloss over any questionable conduct of a former employee. The end result is usually a poor perspective of the applicant's background with regard to honesty.

For these reasons, applicants for the Florida Highway Patrol are given the polygraph immediately after the prescreening process. This accelerates the applicant selection process considerably and reduces the demand on manpower for conducting lengthy background investigations.



Major Dickson

Col. Bobby R. Burkett
Director

Polygraph Theory

Everyone has at least a partial understanding of the psychology of lying and lie detection. Most of us are personally acquainted with the inner sensations that so often accompany a lie. "In endeavoring to conceal the truth, one might experience a thudding increase in heart beat, the rush of blood to the face, an uncontrollable impulse to swallow, or other physiological symptoms resulting from fear over the possibility that the lie will be detected."[1]

These physiological changes are the phenomena with which the polygraph examiner concerns himself. The polygraph is a scientific, diagnostic instrument used to measure the physiological response of an examinee under controlled conditions. "The polygraph is based on the theory that when telling a lie, an examinee will respond physiologically because of fear of detection."[2]

Applicant Selection Process

All applicants for the Florida Highway Patrol must submit an application to the Bureau of Certification of the Department of Administration and the Florida Highway Patrol supplemental application to the Bureau of Human Resource Management and Development (Personnel) of the Department of Highway Safety and Motor Vehicles.

The Bureau of Certification informs the applicant when and where the written examination will be given, administers and grades the examination, and notifies those who passed the examination. Personnel screens the supplemental applications to insure that all meet the minimum qualifications, and if so, the personnel file is placed in the investigation phase.

The Florida Highway Patrol Investigation Section administers a pre-employment polygraph examination, the results of which are evaluated by a general headquarters staff screening committee composed of the chief investigator, the chief of the Bureau of Human Resource Management and Development (Personnel), and the department's EEOC coordinator. Once the applicant is approved by the staff screening committee, a thorough background investigation is conducted by an investigator specially trained in this area. While the background investigation is on-going, the applicant receives a thorough physical and eye examination.

If the applicant successfully completes the above areas, he or she must appear before an oral interview board consisting of five patrol officers. Upon successfully completing this phase, he or she is then placed on an eligibility roster in rank order based on the total of grades received from the written examination and the oral interview board.

Pre-Employment Polygraph Screening

The pre-employment polygraph screening process consists of two phases—the polygraph examination and the staff review of the polygraph examination results.

Phase I—Polygraph Examination

There are three steps to the polygraph examination—pre-test interview, the polygraph test, and the post-test interview. During the first step, a standardized preprinted interview is conducted to insure uniformity statewide on all applicants regardless of race, color, religion, sex, or national origin. By using the most up-to-date interviewing techniques, all applicants are questioned extensively in the following categories: Employment history, medical and mental health, military service, gambling habits, drinking habits, arrest, use and sale of illegal drugs, theft of money and merchandise, and undetected crimes.

If the applicant is or has been employed as a police officer or corrections officer, he or she is also questioned extensively on job-related activities.

Once the pre-test interview has been completed, the applicant is given the polygraph test in accordance with Florida Polygraph Association and American Polygraph Association standards. A minimum of two charts are run on each applicant. If consistent physiological responses indicative of deception are noted on the polygraph charts on any relevant issue, the polygraph examiner attempts to resolve the issues during the post-test interview, along with additional testing.

Phase II—General Headquarters Staff Review

After careful analysis of the polygraph charts, the polygraph examiner determines if consistent deceptive responses are indicated on any relevant issue. A comparison is then made between pre-test admissions and information contained in the applicant's application.

A written report on the above information is then submitted to the general headquarters staff review committee for evaluation. The polygraph examiner submits information from the applicant's application, pre-test admissions, post-test admissions, and polygraph test results only and makes no recommendations.

The review committee either approves or disapproves the applicant based on the examiner's report in relation to established qualification factors. The committee may reject the applicant, refer the applicant to background investigations, direct additional polygraph testing, or place the applicant inactive for a specific period of time.

Applicants who are deceptive and do not adequately address the deceptive responses are referred to background investigations for verification through additional investigation. Applicants are not disqualified solely on deceptive results.

Results

Since the inception of the pre-employment polygraph screening through December 1985, Florida Highway Patrol examiners have screened 2,711 applicants. Of these applicants, 1,626 (60 percent) were rejected on the basis of admissions that were sufficient to disqualify the applicant.

Analysis of the polygraph reports indicates that of the 1,626 applicants rejected, many had committed serious felony crimes such as attempted murder, sexual battery, statutory rape, self-reported incidents of child abuse, arson, assault with a firearm, robbery, breaking and entering, grand theft, receiving stolen property, auto theft, and miscellaneous felonies.

When the Florida Highway Patrol began using the polygraph for pre-employment purposes in June 1980, it was learned that the majority of all applicants had used some type of illegal drug during their lifetime. It became obvious that the department had to establish some standards concerning drug involvement for qualification purposes.

Applicants who have used hallucinogenic drugs such as LSD or other hard drugs such as heroin are rejected. Involvement with other illegal drugs is individually evaluated on the basis of circumstance of use, length of use, and volume in determining suitability. Applicants must not have used marijuana or any other similar substance for a period of at least 6 months prior to application.

Analysis of the pre-employment polygraph screening reports indicates that of the 633 applicants polygraphed in 1985, 303 (45.7 percent) were rejected. Of these, 112 (37 percent) were rejected due to some type of felony drug involvement.

Summary

The polygraph has proven to be one of the best aids available in the selection process for Florida Highway Patrol applicants and has reduced the incidents significantly where employees could violate the public trust and discredit the department. The polygraph, like all investigative aids, is not a substitute for a thorough background investigation. However, in the hands of trained examiners, it is invaluable in the selection process for police applicants.

Footnotes

[1] James K. Murphy, "The Polygraph Technique—Past and Present," *FBI Law Enforcement Bulletin*, vol. 49, No. 6, June 1980, p. 2.

[2] Ibid.

I-SEARCH For Missing and Exploited Children

"I-SEARCH ... is a comprehensive program designed to promote an immediate and effective response to the issues of missing and exploited children."

By
ALEX FERGUSON
Superintendent
and
DANIEL G. MASCARO
Deputy Superintendent
Department of State Police
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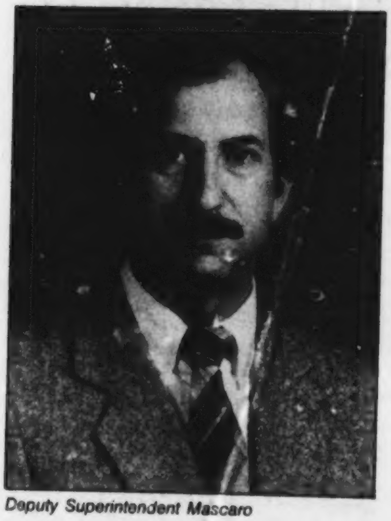
The authors served as key consultants to a fast foods corporation's national "Safe Kids" program. They cooperatively developed the child safety messages contained in a special booklet designed to stimulate communication between parents and their children.

The issue of missing and exploited children is a serious and complex problem that threatens the well-being of our Nation. Yet, despite the nature and national scope of the issue, the criminal justice response to missing and exploited children has a tainted history, and even today, is filled with paradoxes.

Many of the current efforts in this area were initiated by victims or their families. Parents of missing, exploited, or murdered children have become some of the most vocal critics of the ineffectiveness and irrationality of our criminal justice system in handling these cases. Fortunately, victims are not the only critics. Criminal justice pol-

Superintendent Ferguson



Deputy Superintendent Mascaro

icy makers and practitioners are changing the system from within, with a heightened concern for the safety of children.

History of I-SEARCH

In Illinois, there has been a continuing evolution in the manner in which missing children cases are handled. In late 1982 and early 1983, several highly publicized incidents involving missing children, in particular, the murder of a 16-year-old girl, resulted in the Illinois General Assembly adopting a resolution that called for public hearings to identify and define the scope of the missing children problem and the government's response. The Illinois Criminal Justice Information Authority and the Illinois Department of Law Enforcement were assigned the responsibility of conducting the hearings, and after extensive research, prepared a report to the general assembly detailing the problem and making numerous recommendations on the issue.

In the spring of 1984, legislation was passed that implemented many of the report's recommendations. The new measure, signed into law by the governor in September 1984, and entitled the "Intergovernmental Missing Child Recovery Act,"[1] created the I-SEARCH Program.

I-SEARCH is an acronym which stands for *I*llinois *S*tate *E*nforcement *A*gencies to *R*ecover *CH*ildren. It is a comprehensive program designed to promote an immediate and effective response to the issues of missing and exploited children.

I-SEARCH defines a missing child as a child whose whereabouts is unknown to the parents. Based upon a report of a missing child, I-SEARCH responds with a network of resources linked together for maximum effectiveness. This comprehensive network includes police, parents, public and private agencies, schools, and the general public working together to address this problem.

The primary purpose of I-SEARCH is to prevent children from becoming victimized by molesters, abductors, or exploiters through public education programs. I-SEARCH also seeks enhanced investigative efforts in finding children who are missing, identification and investigation of child exploitation, and reintegration of recovered children with their families.

The development of I-SEARCH included an analysis of governmental responses to the issue of missing and exploited children. A retrospective view of criminal justice efforts to prevent, investigate, and provide follow-up treatment for missing and exploited children revealed a system of actions based upon erroneous and potentially dangerous assumptions. Perhaps the most egregious of these is the "24-hour rule." Many law enforcement agencies have developed an administrative policy of waiting 24 hours in missing person investigations. In fact, an informal poll in Illinois during the development of I-SEARCH revealed that about one-third of the agencies surveyed had such a policy in effect at the time.[2] The problem has been exacerbated by the fact that in the absence of clear evidence of foul play, many law enforcement agencies have assumed that the child is a runaway and therefore not at risk. As we are discovering today, the possibility of foul play cannot be ruled out until clear evidence to the contrary surfaces, and our basic assumption about runaways not being at risk is ill-conceived. It is all too often the sad experience of those investigating cases of child exploitation

I SEARCH
HAVE YOU SEEN
1-800-U HELP ME
CRIME PREVENTION TIP

I-SEARCH, in cooperation with a local dairy producer, published photographs on milk cartons distributed over a seven state area. This carton led directly to the recovery of Nora and Ryan Doherty, parentally abducted from Illinois and recovered from Terre Haute, IN.

to find that runaways provide the constant source of vulnerable children for criminal exploitation.

Parental abductions have traditionally been viewed as an insignificant problem by law enforcement, the courts, and even the general public. It is inconceivable to many that a parent would abduct his or her child and subject that child to abuse—psychological, physical, or sexual. In examining the motivations for these abductions, we have found that they are primarily committed out of anger and frustration in an attempt to control or manipulate a spouse. The child is frequently the pawn in a struggle between parents. In many I-SEARCH recoveries of child victims of parental abductions, we have found a varied but common pattern of abuse and neglect.

Although the mass media has become a cooperative and powerful ally in the search for missing children, it too cannot withstand the acid test of its historic treatment of the issue. For years parents appealed to the media for exposure of their cases; yet only recently has the media consented to the routine use of its resources in educating the public regarding the issue and locating and recovering missing children.

The system has broken down in many other ways. Territoriality between agencies sometimes results in critical information not being shared, and therefore, missing children stay missing and exploited children continue to be exploited. Cumbersome bureaucracies may result in cases "slipping through the cracks" of the system. Ineffective legislation and questionable judicial action can further hamper efforts. The issue of missing and exploited children is highly complex and demands that those dealing in this issue be educated and informed. Yet, few incisive training programs are available at each level of the criminal justice system.

Victim Perspective

In the development of I-SEARCH, one consideration emerged as primary—view the problem from the perspective of the victim and family. The victims of crimes against children speak with a soft voice. They have neither power nor influence. The adults that criminally abuse and profit by the inexperience and vulnerability of children betray the natural trust that children have of adults.[3] Parents of these children deserve sensitive treatment by criminal justice practitioners and a system that is both responsive and effective in handling these cases.

"The issue of missing and exploited children is highly complex and demands that those dealing in this issue be educated and informed."

Thumbs-Up for I SEARCH
I SEARCH
Illinois State Enforcement Agencies to Recover Children
Have you seen any of these missing children?
1-800-U-HELP ME

This display has traversed the nation with I-SEARCH speakers in an effort to raise public awareness.

Cycle of Violence

Perhaps the most compelling argument for aggressive action in dealing with abuse and exploitation of children is the interdiction of the "cycle of violence." Mounting research evidence indicates that children who have been violently abused or sexually exploited will become the abusers and exploiters of the future.[4] There is also increasing evidence that a common link between most violent criminals in society today may be the fact that they were abused psychologically, physically, or sexually as children.[5] The nexus between child victimization and violent adult criminality demands our attention and continued research.

Data Collection

The statistics regarding missing and exploited children have long been an issue of contention. Long term planning requires accurate data. I-SEARCH is collecting this data in LEADS (Law Enforcement Agencies Data System). LEADS is the Illinois computer telecommunications system linked to the FBI's National Crime Information Center (NCIC) and serving over 900 terminals located in Illinois law enforcement agencies.

Through legislation, I-SEARCH mandates immediate entry of missing children into LEADS and automatically produces a regional alert to law enforcement agencies whenever a missing child is entered into the system. Local law enforcement agencies are also required to provide prompt confirmation of the entry of a missing child report into LEADS to the parent or guardian of the child.

LEADS also provides the vehicle for the entry of dental and other physical descriptive records of missing persons into NCIC for comparison of these records with the national unidentified person file in an attempt to identify missing persons found dead.

Several modifications have been made in the system to collect detailed information for the LEADS data base. I-SEARCH mandates data entry and cancellation codes to collect specific information on case type and disposition. These basic files provide the research and are developing into one of the most accurate State-level data bases yet developed for missing and exploited children.

I-SEARCH Units/Participating Agencies

The I-SEARCH grant program provides funding for the development of local I-SEARCH units. Local government units including police, other criminal justice agencies, social services agencies, school boards, and other organizations can band together to address the problem of missing children on a community or regional basis with the assistance of State funding. In the last year, over $2 million of State monies have been distributed to fund the development of local units. Agencies desiring to be a part of the statewide I-SEARCH network without receiving State funding may become an I-SEARCH "participating agency" by signing an agreement of intergovernmental cooperation with the Illinois State Police.

"In the development of I-SEARCH, one consideration emerged as primary—view the problem from the perspective of the victim and family."

I-SEARCH units and participating agencies have a primary responsibility of increasing public awareness and educating children and parents in crime prevention techniques, as well as ensuring an effective response to all cases of missing and exploited children.

I-SEARCH units also provide child information packets for parents to maintain fingerprints and other identification information about their children to be used by investigators.

Investigations

Through I-SEARCH, the Illinois State Police actively investigates any report of a missing or exploited child. The safety of the child is always the primary concern of the investigation.

To assist in locating missing children, I-SEARCH has a toll free hotline—1-800-U-HELP-ME. It is used by the public to report information on a missing or exploited child or by a child in need of help. It has also been extremely useful as a central number for use in collecting leads in major case investigations.

Investigators have been deployed across the State to work exclusively on cases involving sexual exploitation of children. Cases of child prostitution, pornography, and sexually victimized or exploited children are the target of these investigations. Training has been provided in the special interview and investigative techniques designed and developed for such cases.

The investigators work closely with the FBI, U.S. Postal Inspection Service, U.S. Customs Service, Chicago Police Department, and many other local law enforcement agencies and are supported by the necessary resources, including sophisticated communications and advanced surveillance technology. In addition, the investigators may be supplemented by selected Illinois Department of Children and Family Services case workers and I-SEARCH child psychologists who will assist in the investigation and provide support, counseling, and placement assistance for child victims. Training in sexual exploitation and related investigative techniques is also provided by the State to local law enforcement officers to enhance the response at the local level.

Under the "Intergovernmental Missing Child Recovery Act," all law enforcement agencies in Illinois are mandated to submit to the Illinois State Police a detailed sex motivated crime analysis report (SMCAR) in all cases where criminal acts are sexually motivated. The report contains information on victims, offenders, vehicles, and methods of operation. I-SEARCH has developed and funded a criminal intelligence computer system to provide support for the SMCAR and other investigative data bases. The network encompasses all investigative zones throughout the State, bringing intelligence capabilities to the fingertips of every special agent in the field.

Public Information and Education

Awareness of the problem is the first step to prevention. I-SEARCH uses a multifaceted program to inform the public and advise them on dealing with the issues of missing and exploited children. I-SEARCH publishes the "Missing Children Bulletin," a compendium of photographs of missing children, articles on new developments in the field, and crime prevention information. It is sent around the Nation in an effort to locate missing children and elevate the consciousness of the public regarding these tragic cases.

Other publications include a *National Directory of Missing and Exploited Children Organizations* and a guide for parents and children on preventing abduction and actions to be taken if a child is missing. I-SEARCH has also provided speakers to numerous child safety workshops, national conferences, civic organizations, and governmental bodies.

The Illinois State Police has hired and trained 10 child safety officers under I-SEARCH to provide materials and make presentations in a very active ongoing child safety program. They are using a specially equipped robot—Trooper B. Safe—to interact with children and provide safety information. In addition, a series of televised public service announcements have been released describing how to get involved in the I-SEARCH network. Numerous and varied commercial enterprises have also cooperated with I-SEARCH to publish millions of pictures of missing children and child safety tips on milk cartons and billboards, in mass transit vehicles, grocery stores, magazines and newspapers, and numerous other media.

Psychological Services

The Illinois State Police's Office of Psychological Services has a crucial role in the I-SEARCH Program. A police psychologist has been employed by I-SEARCH to handle the special concerns relating to children's issues. These responsibilities include profiling offenders, interviewing recovered children and child exploitation victims, assessing credibility of child testimony, and easing victim and family trauma. Also, psychologists are used to provide guidance and direction in the development of public education materials and crime prevention activities targeted for children.

Whenever a child is located, a unique team approach is used to effect the recovery. Special agent(s) and I-SEARCH psychologist(s) work with the family members to handle the reintegration of the child back into the family. In criminal investigations involving child victims, the main consideration is developing new information and insight without causing additional trauma to the child. This team can effectively develop the criminal case against an abductor or abuser, while caring for the immediate psychological needs of the victim and family.

Legislation

Those involved with the I-SEARCH Program continue to refine the program and address additional problems by introducing and supporting child protection legislation. The proposed changes in the statutes are numerous and varied, but concentrate on making government's response to the missing and exploited children issue more effective and appropriate. These new initiatives seek increased awareness and involvement of many sectors of society, restructuring criminal law to provide greater protection for children, and procedural changes that allow for effective interagency cooperation. Some of these measures include:

—Mandatory crime prevention education in grades K-8;

—Requirement that public schools grades K-8 notify legal guardian within 2 hours if child is absent;

—Criminal background checks on child care facility workers;

—Creation of a new criminal offense "Harboring a Runaway;"

—Modification of child abduction laws to include parental abductions that occur *prior* to custody or paternity decisions;

—Seizure of vehicles used with consent of owner in the commission of certain sex offenses; and

—Criminalizing the mere possession of child pornography.

This effort to address statutorily these needs in State law is an ongoing activity of the I-SEARCH Program that also requires the public to voice their concerns to their elected officials.

Interstate Agreement

The I-SEARCH concept has expanded to six States in the Midwest. The governor of Illinois brought together the governors of Iowa, Indiana, Kentucky, Missouri, and Wisconsin to become signatories to an agreement creating a new meaning for the I-SEARCH acronym. I-SEARCH now stands for *I*nter-State *E*nforcement *A*gencies to *R*ecover *CH*ildren. The purposes of the agreement to:

—Develop a network to collect and share data concerning missing and exploited children and a criminal intelligence system to research and analyze trends and patterns of child victimization;

—Explore the feasibility of participating in a regional "Missing Children Bulletin" and hotline, a regional alert system, and cooperative training and investigation;

—Develop a model structure for the approach to the problems of missing and exploited children, including standards for law enforcement response;

—Examine improved methods for the return of missing children, extradition of offenders, standardized safety programs, and the integration of public and private sector resources to further the identification and recovery of missing and exploited children.

The governors of the six signatory States have also created an advisory board of high-level public safety officials to oversee the implementaton of the agreement.

Conclusion

I-SEARCH works. Many children have been recovered in several different States and local I-SEARCH units have also recorded hundreds of success stories in Illinois. No barrier is too large to stand in the way of the ultimate interest of I-SEARCH—the safety of a child.

The challenge to law enforcement in this emotionally charged issue is great. The response by law enforcement must meet both the traditional public expectations and a new human imperative. I-SEARCH and the law enforcement and government officials which guide it have accepted that responsibility.

Footnotes

[1] Illinois Public Act 83–13541.

[2] Illinois Criminal Justice Information Authority and Illinois Department of Law Enforcement, *Report to the General Assembly on Missing Young Adults*, 1984, p. 12.

[3] A. Nicholas Groth, William F. Hobson, and Thomas S. Gary, *Social Work and Child Sexual Abuse* (New York, NY: Haworth Press, 1982), p. 130.

[4] Chief William L. Hart, et. al., *Attorney General's Task Force on Family Violence* (Washington, DC: U.S. Department of Justice, 1984), pp. 2–3.

[5] Robert W. ten Bensel, "The Scope of the Problem," *Juvenile and Family Court Journal*, vol. 35, No. 4, 1984, pp. 3–5.

Teenage Suicide

An American Tragedy

"identifying a suicidal youngster and then connecting him with appropriate treatment and rehabilitation programs represents a major way of saving lives."

By
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During the past 20 years, the suicide rate has tripled among people aged 15 to 24. Suicide has become the third leading cause of death for this age group, with over 5,000 young people killing themselves in 1984 alone. As many as 500,000 other youths attempt suicide, while probably a million, or more, children think about committing suicide.

This article is an attempt to look at youth suicide from different points of view, with the goal of assisting police officers deal with the problem. Identifying a suicidal youngster and then connecting him with appropriate treatment and rehabilitation programs represents a major way of saving lives. Law enforcement officers must be aware and alert to identify possible suicidal juveniles.

Authorities at the National Institute of Mental Health recently reported that an American teenager commits suicide every 90 minutes. Although the American Psychiatric Association recently reported that the incidence of suicide among young people had reached a temporary plateau, it has risen quite dramatically—by 300 percent over the past 30 years. The suicide rate for teenagers rose 41 percent between 1970 and 1980.[1]

These statistics are probably conservative as youthful suicides tend to be underrecorded because survivors tend to opt for a more acceptable reason of death for social, legal, religious, and economic reasons. Who are the young people behind these statistics?

It is impossible to draw a single, simple portrait of the typical young suicide victim. Children from all socioeconomic and ethnic groups have committed suicide. Family problems, loneliness, depression, and desperation appear to be important factors. Most frightening to authorities is the fact that young people may get the idea to kill themselves from reading or hearing about other suicide victims. Some had parents who were suicidal or who had committed suicide. Their example may have taught the child this terrible form of coping. Most have an inordinate amount of stress, a broken home by divorce, remarriage, or marital discord, and many are the firstborn child. Observation has shown that poor communication within the family unit, a sense of isolation, feelings of rejection, and lack of self-esteem are also factors in teenage suicide. Not one of these factors brings about suicidal behavior, but when they occur in combination, they are very dangerous.

Many suicidal young people have the inability or lack of opportunity to express their unhappiness, frustration, or failure. They find that their efforts to express their feelings are either totally unacceptable to their parents, ignored, or met by defensive hostility. This response often drives the child into further isolation, reinforcing the belief of something being terribly wrong.

"Some youths . . . lack coping mechanisms for the enormous psychological stresses they face."

The increasing use, and abuse, of alcohol by teenagers has added another element to the problem.[2] Drinking is a big factor in suicides. Alcohol causes depression, affects one's judgment, and may pave the way for a suicidal attempt.

Many teenagers contemplate suicide; some attempt it; an alarming number succeed in taking their own lives. Yet, many of these depressed, desperate youngsters do not really want to die; they simply want to escape their problems.

Adolescence itself is a particularly precarious, comparatively short transitional period in which a child is expected to be transformed into an adult. Change, by its nature, means instability. Adolescence is also a period of forming, however imperfectly, self-esteem, the sense of individuality, the values, and the coping skills that one must depend on in adulthood. It is an enormous task even in the most supportive and stable environments. It is not accomplished in a formal, rational, structured fashion, but rather piecemeal, intuitively, instinctively, and unconsciously. In our modern society, in which everything from cultural mores to the cohesiveness of the basic family unit is often riddled by instability, it is little wonder that an adolescent's struggle can sometimes end disastrously.[3]

Authorities offer different theories about why teenagers end their lives. In some cases, a teenager may be driven by a precipitating event or "trigger incident" which might include an argument at home, a breakup of a relationship, not making a team, not getting a date, not passing an exam, or other such events. These are perceived as insurmountable failures and embarrassments.[4] Adolescents lack the adaptive skills or experience an adult might employ in handling such setbacks. They suffer from tunnel vision; all they see is darkness. They do not understand that there is light at the end of the tunnel.[5]

During adolescence, the mind itself undergoes changes that enable it to take on new ways of thinking and dealing with the world. In changing from a child to an adult, the adolescent must come up with totally new definitions of who he is, what his talents are, what the world is, how it stands in relation to him, and how to relate with it.[6] Some youths have never learned to withstand disappointment and have not had enough experience with life to understand that problems will be resolved. In summary, they lack coping mechanisms for the enormous psychological stresses they face.[7]

Some Psychodynamic Observations

Certain specific, clear-cut differences have been found between the committed-suicide group and the other groups of suicidal adolescents. Greater frequency of psychiatric hospitalization, combined with a higher rating of emotional disturbance and fewer prior suicide attempts, marked the history.

There is some evidence that the adolescent who commits suicide has a greater predisposition toward self-destruction, and therefore, requires less overt stress than his colleagues to initiate the suicide act. This evidence was confirmed in some degree by the fact that the loss or threatened loss of a loved one operates less often as a precipitating stress or "trigger" among those in the committed-suicide group than it did on the attempts of those in the suicidal groups. Stress was reported to be higher among people who attempted suicide. The reaction was to communicate their suicidal intent openly, i.e., verbally or behaviorally, in order to let others know of the psychological pain they were experiencing, and thus ultimately, to reduce the stress they were feeling.

Categories of Youth Suicide

The Loner

This personality type begins to emerge at age 14 or 15 and has been described as fitting a clear-cut symptom pattern. Characteristics associated with this kind of person center around loneliness, isolation, lack of friends, and poor interpersonal communication with peers and parents. Most often, youngsters who are described as "loners" come from intact families, though it appears that these parents have difficulty with their image of themselves as parents and are constantly concerned about making mistakes and not being good parents. They interpret the child's complaints about problems, unhappiness, or general life difficulties as a statement of their lack of competence, and therefore, in a defensive gesture, will often insist to the child that he really is not unhappy and has nothing to complain about. In these families, the child usually learns at an early age that what he thinks of himself and what his parents think of him are different and he begins to distrust his own thoughts and feelings. His solution is not to communicate his unhappy thoughts and feelings to anyone. This builds up to a person in the late teens with potential high suicide risk.

Acting Out Depression

Suicidal thoughts and attempts are most common in this group. The number of youngsters who fit this category began increasing in the early 1970's. Although there may be many white males in this group, there is a larger proportion of ethnic groups and females than in the other categories. These youngsters are characterized primarily by behaviors that are seen by others as illegal, dangerous, disruptive, harmful, or hostile. The major symptoms represented by people in this category are that of drug and alcohol abuse, running away, petty crimes (e.g., shoplifting and joyriding), assaultive behaviors (frequently with members of one's own family), and occasionally, serious violence. Psychodynamically, these youngsters experience in their early teens surges of depressive feelings that they are unable to understand, explain, or cope with. They often experience and interpret these feelings as painful boredom, and frequently, through role models in their nuclear or extended families, they decide that the most effective way to cope with these feelings is through some form of action. The action, which often includes substance abuse, typically helps them get through the most difficult part. They keep doing it as long as it works. However, these people often get in trouble, particularly with the authorities, who treat them as delinquents rather than depressed youngsters, adding to their sense of despair. These children often come from broken homes, where chaos, inconsistency, and substance abuse is not uncommon. Learning to use alcohol and drugs as a solution to their problems is very frequently something that comes directly from a parent or older sibling.

The Crisis Suicide

Youngsters who evidence suicidal behaviors and symptoms who fit into the crisis category probably represent less than 15 percent of all suicidal youngsters. The major findings among these kinds of persons are that there is an apparently normal pre-morbid personality, no history of severe emotional trauma, and a reasonably stable family pattern.

The typical pattern is that of an adolescent who reaches a point in his life where he becomes aware of, or has inflicted upon him, sudden traumatic changes. The changes may include the loss of a loved one or the loss (or threatened loss) of status in school through academic or atheletic failure. Subsequently, the youngster undergoes sudden and dramatic changes in behavior that may include loss of interest in things that were previously important, sudden hostile and aggressive behaviors in a previously placid youngster, and signs of confusion and disorganization. There is typically an inability to concentrate, and frequently, a series of classical depressive symptoms.

The Psychotic Suicide

This category of youth suicide is somewhat smaller in numbers than the others, and psychologically, are very difficult to work with. The symptom picture often includes delusions, hallucinations, and occasionally, direct messages from voices to kill oneself. Much of the fantasy and some of the behavior of these youngsters would be considered violent and bizarre. The suicidal behavior itself is often bizarre.

These youngsters most often come from single-parent families, i.e., at least families in which only one parent is psychologically present. Sometimes the parents are grossly psychotic, alcoholic, or both; sometimes, the behavior patterns are quite varied and they resemble other categories of suicidal youngsters. But the decision to place the youngster in the particular category of the psychotic suicide is determined by the bizarre symptoms combined with suicidal behavior.

Suicidal Behavior as Communication

This final category focuses on a rather large number who attempt to threaten suicide and for whom communication is a major factor in their suicidal behavior. It is a much less frequent category when examining suicide deaths. In these cases, the person becomes suicidal when more common avenues of expressing frustrated feelings become blocked, interrupted, and stymied. This is not to say that the young suicidal person who is communicating through suicidal behavior is doing so in a calm, rational manner. The experience of a person is usually one of desperation, unhappiness, and great upset. But the lethality of the behavior is almost always low. The ultimate purpose of the behavior seems to clear the way, to open up and break through the barriers, so that the significant others will know how desperate or how unhappy he feels. This represents the classical "cry for help." This suicidal youngster does not necessarily have a history of severe disturbance or prior suicidal episodes, although they may be present.[8]

Warning Signals

Depressed youths will usually display one or more of the following symptoms:

"It is impossible to draw a single, simple portrait of the typical young suicide victim."

1) Change in personality (sadness, withdrawl, irritability, anxiousness);
2) Change in behavior (lack of concentration on school, work, or routine tasks);
3) Change in sleep patterns (oversleeping, insomnia, or early waking);
4) Change in eating habits (loss of appetite and weight or overeating);
5) Loss of interest in friends, sex, hobbies, or activities previously enjoyed;
6) Worry about money or illness, either real or imaginary;
7) Fear of losing control (going crazy, harming self or others);
8) Feelings of helplessness and worthlessness ("Nobody cares," "everyong would be better off without me");
9) Feelings of overwhelming guilt, shame, self-hatred;
10) No hope for the future ("It will never get better; I will always feel this way");
11) Drug or alcohol abuse;
12) Recent loss through death, divorce, separation, broken relationship, or loss of job, money, status, self-confidence, self-esteem;
13) Loss of religious faith;
14) Suicidal impulses, statements, plans, giving away favorite things, previous suicide attempts or gestures; and
15) Agitation, hyperactivity, and restlessness to indicate masked depression.

What causes the depression? Authorities believe that a combination of genetic and environmental factors are probably responsible. It is known, for example, that children of depressed parents and grandparents have a far greater chance of developing the disorder than those without depressed relatives.[9]

Whether this is caused by an inherited chemical imbalance in the brain or by children mimicking the behavior of depressed adults around them, or both, is unclear. However, there seems to be general agreement that a depressed child is often the victim of "many losses." Divorces, deaths in the family, constant moves and separations (especially in the first few years of life), coupled with a loss of self-esteem brought on by abusive parents, are usually part of the pattern.

It is also true, though, that not every child who experiences such losses suffers from serious depression. Some children are more resilient and invulnerable than others for reasons that may never be understood.

Prevention

What can be done to prevent these tragic deaths? Parents who suspect their child is depressed should choose a comfortable and relaxed time to talk to the child about his feelings and problems. Sometimes all it takes to lift a depressed child's spirits is to give that child special amounts of attention, affection, praise, and emotional support. Provide the child with opportunities to regain or boost their pride, ego, and self-esteem.

For law enforcement personnel confronted with a potential suicide, it is important not to act as if nothing is wrong, according to the American Association of Suicidology. Talk to him; listen to him; draw him out; let him know you are concerned. Most people who attempt suicide do not really want to die—at least not at first. It is only when no one responds to their signals that they become convinced that their only option is death. Do not be afraid to ask: "Do you sometimes feel so bad you think of suicide? Just about everyone has considered suicide, however fleetingly, at one time or another. There is no danger of "giving someone the idea." In fact, it can be a great relief if you bring the question of suicide into the open and discuss it freely without shock or disapproval.

Raising the question of suicide shows that you are taking the person seriously and are responding to the potential of his distress. If the answer is, "Yes, I do think of suicide," you must take it seriously. Then continue with other questions, such as: Have you thought how you would do it? Do you have the means? Have you decided when you would do it? What happened then? If the person has a definite plan, if the means are easily available, if the method is a lethal one, and the time is set, then the risk of suicide is very high. Your response will be geared to the urgency of the situation as you see it. It is vital not to underestimate the danger. Ask for details.

Do not leave a suicidal person alone if you think there is immediate danger. Stay with the person until help arrives or the crisis passes. Nearly everyone can be helped to overcome almost any kind of situation which might destroy their self-confidence if they have someone who will listen, take them seriously, and help them feel worthwhile and wanted again.

Common to almost every suicidal crisis is a strong ambivalence: "I want to kill myself, but I don't want to be dead—at least not forever." What most suicidal people want is not death but some way out of a terrible pain of feeling, "Life is not worth living; I am not fit to live; I am all alone with this; I don't belong and nobody cares." After being allowed to unburden, without interruption—without being judged or criticized, or rejected or told what to do—the tension drops, the pain is relieved, and the suicidal feelings pass—maybe not forever, but for now. Suicidal kids just want to know someone cares. The key is to listen. If the person is hallucinating, influenced by drugs or alcohol, if the danger of suicide is imminent and the means are available, obtain professional help. Do not carry on alone. Talk in confidence to a person trained in suicide prevention. If someone is in trouble, there are many resources. These include school counselors, local suicide prevention programs, crisis hotlines, and psychologists and psychiatrists.

Conclusion

Youthful suicide is a serious national problem for society as a whole that calls for total involvement. There must be an increased public and national awareness to this problem and an expansion of community-based strategies for addressing it.

An educational program must be undertaken to alert parents and local institutions with which our youngsters came into everyday contact—schools, churches, athletic organizations, volunteer and youth services groups, recreational clubs, parent/teachers associations and others—to the signs and symptoms of potential suicide victims. Progress will be made when all members of our society are better educated and made aware of the very serious nature of this problem. The youth of America are our most priceless assets.

FBI

Footnotes

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[2] Arthur S. Freese, *Adolescent Suicide, Mental Health Challenge*, 1st ed. (Canada: The Public Affairs Committee, 1979), pp. 7–8.

[3] Peter Giovacchini, *The Urge to Die—Why Young People Commit Suicide* (McMillan Publishing Co., 1981), pp. 45–80.

[4] Andre Haim, *Adolescent Suicide* (International University Press, 1974), pp. 40–50.

[5] Pamela Cantor, "Teen Suicide," *People Magazine*, February 18, 1985.

[6] Supra note 3, pp. 101–122.

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[8] Maurice L. Farber, *Theory of Suicide* (Funk and Wagnalls, 1968), pp. 117–230.

[9] Robert Barry, et al, *Police Work with Juveniles and the Administration of Juvenile Justice* (Thomas Books, 1982), ch. 6.

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Drug Arrests On The Rise

Over the past 5 years, the number of heroin and cocaine arrests by local law enforcement agencies rose 167 percent, according to recent Uniform Crime Reporting figures. This increase could be attributed to the emphasis placed on drug enforcement policy and the acceleration in criminal activities involving heroin and cocaine. During this same time frame, 1980 to 1984, arrests for marijuana increased only 3 percent in volume, due to a significant decrease in marijuana arrests among those under 21 years of age.

Although heroin and cocaine are gaining prominence in law enforcement arrest statistics, marijuana continues to be the drug most frequently resulting in arrest. Numerically, heroin and cocaine accounted for 1 of every 4 drug violation arrests last year, a shift from the 1 of every 8 ratio in 1980.

Data on heroin and cocaine arrestees showed every age category increasing from 1980 to 1984. The number of arrestees under 21 more than doubled and those aged 21 and older nearly tripled. However, for marijuana, there were 27 percent fewer arrestees in the under 21 age group, while the 21-and-over category registered a 37-percent increase.

Admissibility of Post-Hypnotic Testimony

" . . . an investigator should use hypnosis only in situations where the potential gains outweigh the risk of prejudice that may result and only after more traditional methods have failed."

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

In Chowchilla, CA, a busload of 26 school children and their driver were kidnaped by 3 masked gunmen who forced the victims into an abandoned trailer truck buried 6 feet underground. Sixteen hours after their abduction, the captives managed to free themselves and were soon rescued. Much to the investigators' dismay, however, neither the children nor the bus driver were able to provide any clues as to the identities of their kidnapers. In desperation, a hypnotist was called to assist in the investigation. During his first session with the hypnotist, the bus driver was able to recall all but one digit of the license plate on the kidnapers' white van. This information helped investigators to identify and locate three individuals who were eventually arrested, tried, and convicted on kidnaping charges.[1]

In Arizona, the mother of two young children stood helplessly by while her husband died of gunshot wounds inflicted during an exchange of fire with an intruder in their home. Highly traumatized as a result of the incident, the witness could not give a clear description of the intruder until she was placed under hypnosis. Once under hypnosis, the women not only assisted in the construction of a composite drawing of a suspect but also recalled that the intruder had been shot during the altercation. The suspect who was ultimately identified on the basis of the composite drawing had, at the time of his arrest, a fresh gunshot wound in the same location described by the witness under hypnosis.[2]

These and countless other similar successes have made hypnosis a very popular and widely used investigative tool over the past 2 decades. So common has the use of hypnosis become in the investigation of crimes that many police departments and law enforcement agencies have established specially trained units that exist primarily for hypno-investigative purposes. These so called "Svengali Squads" came into existence in the early 1970's[3] and have been credited with hundreds of convictions since that time. Unfortunately, hypnosis is not an exact science, and for every success story attributable to the "Svengali Squads," there is an equally striking example of how hypnosis has failed to produce accurate results. Consequently, some courts are less than totally enamored with hypnosis as a forensic tool and have significantly curtailed the usefulness of hypnosis in many jurisdictions. These courts question the reliability of recall enhanced by hypnosis, whether the hypnotic process affects the accuracy of pre-hypnotic recall, and ultimately what, if

Special Agent Kingston

any, post-hypnotic testimony should be legally admissible against a criminal defendant.

This article will identify the problems inherent in using hypnosis to enhance witness recall, discuss rules that State and Federal courts have adopted to determine the admissibility of post-hypnotic testimony, and suggest procedural safeguards to be implemented when using hypnosis as an investigative tool.

PROBLEMS WITH RELIABILITY

As courts which have confronted this issue point out, experts in the "science" of hypnosis themselves are unable to agree on a theory that adequately explains the phenomenon of hypnotic recall. One school of thought maintains that memories are "recorded" in the human mind much like movies are recorded on film. Under hypnosis, these memories can be "played back" in precise detail, and as a result, the subject's memory is accurately refreshed.[4] While this particular theory enjoyed considerable acceptance in the past, its popularity in recent years has been usurped by a more realistic approach. Today, a majority of experts in the scientific community adhere to the proposition that the human mind perceives an event, receives the information, and retains only portions of the memory for later recall. Hypnosis can aid in that recall by relaxing the subject and removing exterior distractions. However, because hypnotic retrieval of memory entails a reconstruction of events rather than an errorless "play back," recollections induced in this manner may be fraught with inaccuracies.[5]

The inaccuracies associated with hypnotic recall cannot, necessarily, be blamed on the individuals involved in the process. Rather, the inaccuracies are more often attributable to problems inherent in the hypnotic process itself, problems such as hypersuggestibility, hypercompliance, and confabulation.

Hypersuggestibility

Hypnosis is a state of altered consciousness "marked by heightened suggestibility"[6] or hypersuggestibility. Thus, an individual in a hypnotic state is very open and responsive to suggestions made by the hypnotist. While this particular characteristic is what makes hypnosis a successful technique in both the medical and entertainment fields, hypersuggestibility presents a very serious problem when using hypnosis for investigative purposes. When using hypnosis to refresh the memory of a potential witness, there exists a very real danager that the subject will respond to suggestions made by the hypnotist, no matter how subtle or unwitting those suggestions may be. The unfortunate result is an inaccurately refreshed recollection based on a commingling of the subject's original observations and the suggestions received from the hypnotist.[7]

Hypercompliance

Very closely related to hypersuggestibility is a characteristic of hypnosis known as hypercompliance—the hypnotized subject's overwhelming desire to please either the hypnotist or others who have urged him to undergo hypnosis.[8] Motivated by hypercompliance, it is not uncommon for a subject being questioned under hypnosis to suppress an appropriate response and respond, instead, in a manner that he believes is expected of him.[9] When the subject under hyp-

"... the admissibility of post-hypnotic testimony is contingent upon a showing that the hypnotically refreshed recall is reliable."

nosis is a potential witness attempting to refresh his memory, and the individual he is seeking to please is a prosecutor or an investigator, it is not difficult to imagine the havoc hypercompliance could wreak on the subject's accurate recall.

Confabulation

In a hypnotic state, a subject, already prone to hypersuggestibility and hypercompliance, will unconsciously invent facts in order to answer questions posed by the hypnotist, if the subject lacks adequate knowledge or memory to respond honestly to the inquiry. This process of artificially enhancing memory or "filling in the gaps" is called confabulation.[10]

Although hypersuggestibility, hypercompliance, and confabulation present serious problems when attempting to refresh the recollections of a witness through hypnosis, these problems are, by no means, unique to hypnosis. It is not uncommon for an individual who is overly anxious to assist in an investigation to engage in activities closely resembling hypersuggestibility, hypercompliance, and confabulation without the aid of hypnosis. However, many experts in the field of hypnosis contend that an additional feature of hypnosis puts the previously hypnotized witness in a class by himself. This distinguishing feature is the fact that a witness who admits to being uncertain of the accuracy of his recollections prior to hypnosis often becomes firmly convinced of the accuracy of his recollections after hypnosis, despite the fact that his recollections may include false memories induced by hypersuggestibility, hypercompliance, and confabulation.[11]

These problems inherent in the use of hypnosis were powerfully demonstrated in a laboratory test which involved instilling false guilt in experimental subjects through hypnosis. The subjects were so strongly convinced of their own guilt that they were unable to pass a subsequently administered lie detector test. Although completely innocent, the subjects' admissions of guilt registered as truths on the polygraph.[12]

JUDICIAL ANALYSIS

Overwhelming as the problems inherent in the hypnotic process appear to be, some experts still believe the harmful effects of hypnosis can be minimized and are of the opinion that if proper precautions are taken, previously hypnotized witnesses can provide accurate courtroom testimony.[13] Nevertheless, many appellate courts have opted to curtail drastically the use of previously hypnotized witnesses in criminal proceedings.[14] The courts that have limited the use of post-hypnotic testimony have done so on the ground that prior hypnosis renders a witness intrinsically unreliable. However, like their counterparts in the scientific community, appellate court judges are unable to agree on what constraints should be placed on the use of post-hypnotic testimony. As a result, a wide discrepancy exists among the courts with regards to the admissibility of testimony of a previously hypnotized witness. This discrepancy, in turn, has created a dilemma for the investigator deciding when to use hypnosis to enhance witness recall and for the prosecutor determining how to present his best evidence to support a criminal conviction.

A review of the Federal and State appellate court decisions which address the issue of admissibility of post-hypnotic testimony indicates that the variance in treatment by these courts can be analyzed by grouping their decisions into four categories: (1) Those that find prior hypnosis to be an issue affecting credibility, not admissibility; (2) those that make admissibility of post-hypnotic testimony contingent upon a showing of reliability; (3) those that declare inadmissible any testimony based on hypnotic recall while permitting testimony relating to events recalled prior to hypnosis; and (4) those that hold prior hypnosis to be an absolute bar to admissibility. The cases in each category, although factually different, are decided on similar rationale. Each category is discussed below in terms of factors considered by courts in deciding the legal admissibility of such testimony.

Credibility Not Admissibility

This first category was created in the 1968 case of *Harding* v. *State*.[15] In that case, the Maryland Court of Special Appeals became the first appellate court to address specifically the issue of the admissibility of post-hypnotic testimony. The trial court in *Harding* had heard the testimony of Mildred Coley, the victim of an apparent attempted rape and murder, and had admitted her testimony over defense objections, despite the fact that the evidence clearly demonstrated the victim had little or no accurate recall of the assault prior to hypnosis. The trial judge allowed the case to go to the jury in its entirety with the following precautionary statement:

> "You have heard, during this trial, that a portion of the testimony of the prosecuting witness, Mrs. Coley,

> was recalled by her as a result of her being placed under hypnosis. The phenomenon commonly known as hypnosis has been explained to you during this trial. I advise you to weigh this testimony carefully. Do not place any greater weight on this portion of Mrs. Coley's testimony than on any other testimony that you have heard during this trial. Remember, you are the judges of the weight and the believability of all the evidence in this case."[16]

On appeal, the Maryland Court of Special Appeals upheld the defendant's conviction and found that the post-hypnotic testimony of the prosecuting witness was sufficient to support that verdict. Essentially, the court held that prior hypnosis, in and of itself, does not render a witness incompetent to testify and that any ill effects the hypnotic process may have on accurate recall create issues of credibility, not admissibility. In so holding, the court considered neither the potential dangers of hypersuggestibility, hypercompliance, or confabulation nor the viewpoints of the scientific community on the reliability of hypnotically induced recall. Rather, the court simply emphasized the witness' own statement that she was testifying from her own refreshed recollection of the events as they occurred, the opinion of the hypnotist that there was "no reason to doubt the accuracy of the witness' recollections,"[17] and the trial court's cautionary instruction to the jury. Based on the foregoing observations, the appellate court believed it was justified in drawing the following conclusion:

> "The admissibility of Mildred Coley's testimony concerning the assault with intent to rape case causes no difficulty. On the witness stand she recited the facts and stated she was doing so from her own recollection. The fact that she has told different stories or had achieved her present knowledge after being hypnotized concerns the question of the weight of the evidence which the trier of facts, in this case the jury, must decide."[18]

Although the rather simplistic approach adopted by the court in *Harding* drew considerable criticism from legal commentators and the Maryland court's position was subsequently reversed in the 1982 case of *Collins* v. *State*,[19] the case won immediate acceptance among many State and Federal courts faced with like issues, and the opinion has managed to retain considerable vitality.[20]

Today, several courts still hold to the proposition that the possible effects of hypersuggestion, hypercompliance, and confabulation impact on the weight, not the admissibility, of the testimony of previously hypnotized witnesses. These courts assume that "skillful cross-examination will enable the jury to evaluate the effects of hypnosis on the witness and the credibility of his testimony."[21]

Admissibility Contingent Upon Reliability

Several State appellate courts since *Harding* have created a second category of cases on this issue by rejecting *Harding's* per se admissible standard, and instead, adopting a rule of limited admissibility.[22] Court decisions that fall into this category are more concerned with the problems inherent in the hypnotic process and hold that the admissibility of post-hypnotic testimony is contingent upon a showing that the hypnotically refreshed recall is reliable. While these courts agree that the key to admissibility of post-hypnotic testimony is reliability, the methods prescribed for demonstrating such reliability vary greatly by jurisdiction.

Some jurisdictions have embraced a very elementary test of reliability that requires the party proposing the testimony of a previously hypnotized witness to show that the testimony is based on the witness' independent recall and is not merely the product of the hypnotic process. Conceivably, this burden could be met by demonstrating a consonance between the witness' pre- and post-hypnotic statements, corroboration of the witness' statements made under hypnosis, or merely by establishing the opportunity of the witness to observe the events which he purports to recall under hypnosis.[23] Other jurisdictions apply a balancing test[24] which measures the probative value of the post-hypnotic testimony and weighs it against the "danger of unfair prejudice, confusion of issues, or misleading the finder of fact."[25]

However, a majority of courts that subscribe to the limited admissibility rule have shifted their attention away from the proffered post-hypnotic testimony and focus, instead, on the hypnotic process itself. Typically, these courts attempt to insure the reliability of post-hypnotic recall by imposing procedural safeguards which must be strictly adhered to during the hypnotic session. Although differing slightly from jurisdiction to jurisdiction, a majority of these safeguards have been adapted from suggestions made by Dr. Martin Orne,[26] an expert in hypnosis, and are, therefore, fundamentally quite similar.

"... law enforcement officers should be selective in their use of hypnosis and should follow procedures that grant them the greatest likelihood of admissibility."

Dr. Orne's suggestions were first introduced in the 1981 New Jersey Supreme Court case of *State* v. *Hurd*.[27] In this case, defendant Hurd was arrested and charged with assault with intent to kill when the victim of the assault identified Hurd as her assailant. The victim, Hurd's ex-wife, informed investigators that on the evening of the attack, she was asleep in the bedroom of her ground floor apartment when someone reached through the window and stabbed her numerous times. Although she was unable to identify her attacker immediately after the incident, the victim asked the police to "check out" her former husband. Later, the victim was informed that her current husband, David Sell, and her former husband, Paul Hurd, were the primary suspects in the case.

The victim then agreed to undergo hypnosis in an attempt to refresh her memory. While under hypnosis, the victim began to relive the incident and became hysterical. When asked whether the assailant was her ex-husband, the victim responded affirmatively.

After she was brought out of the hypnotic trance, the victim expressed mistrust about her identification of Hurd. However, investigators encouraged her to vindicate her current husband by making a formal identification of Hurd. Consequently, the victim gave a statement to police identifying Paul Hurd as her assailant.

Prior to trial, the defendant moved to suppress the victim's proposed in-court identification on the ground that the original identification procedure was tainted by the suggestive hypnotic process, and therefore, was inherently unreliable. After hearing expert testimony regarding the reliability of hypnotically refreshed recall in general and reviewing the circumstances of the particular hypnotic process in question, the trial court granted the defendant's motion to suppress. On appeal, the New Jersey Supreme Court upheld the trial court's decision to suppress the in-court identification and imposed the following procedural safeguards to insure the reliability of post-hypnotic testimony:

1) The hypnotic session should be conducted by a licensed psychiatrist or psychologist trained in the use of hypnosis.
2) The qualified professional conducting the hypnotic session should be independent of and not responsible to the prosecutor, investigator, or the defense.
3) Any information given to the hypnotist by law enforcement personnel prior to the hypnotic session must be in written form so that subsequently the extent of the information the subject received from the hypnotist may be determined.
4) Before induction of hypnosis, the hypnotist should obtain from the subject a detailed description of the facts as the subject remembers them, carefully avoiding adding any new elements to the witness' description of the events.
5) All contacts between the hypnotist and the subject should be recorded so that a permanent record is available for comparison and study to establish that the witness has not received information or suggestion which might later be reported as having been first described by the subject during hypnosis. Videotape should be employed if possible, but should not be mandatory.
6) Only the hypnotist and the subject should be present during any phase of the hypnotic session, including the pre-hypnotic testing and post-hypnotic interview.[28]

Clearly, these safeguards, when made a condition precedent to admission of post-hypnotic testimony, are designed to limit the effects of hypersuggestion, hypercompliance, and confabulation while, at the same time, providing the court with adequate grounds on which to judge the reliability of post-hypnotic recall.[29]

No matter what test in this category is used to determine the admissibility of post-hypnotic testimony—the elementary test of reliability, balancing, compliance with procedural safeguards, or a combination of all three—the result is the same: The party attempting to use a previously hypnotized witness must first persuade the court that the post-hypnotic recall of the witness is reliable and not simply the product of the hypnotic process. Once the initial burden is met, the testimony will be admitted, "leaving the jury free to hear and weigh all evidence the opponent of the testimony may offer regarding possibilities of pseudomemory resulting from suggestion, confabulation, or deliberate untruthfulness."[30]

Hypnotically Induced Recall Inadmissible

In a third category of cases involving hypnosis, a growing number of appellate courts are retreating from the case-by-case analysis of admissibility of post-hypnotic testimony, contingent upon its reliability. These courts are holding, as a matter of law, that the probative value of hypnotically induced recall is outweighed by the danger of prejudice in every instance.[31] In their analysis, the courts that subscribe to this view unanimously rely on the test for the admissibility of scientific evidence announced in the 1923 case of *Frye* v. *United States*[32] to support their decisions.

In discussing the admissibility of evidence obtained through scientific means, the court in *Frye* rejected expert testimony based on a lie detector test, despite the fact that the proper foundation had been laid. The court held that regardless of the expertise of the operator, the lie detector test itself was too unreliable to warrant acceptance as a measure of truth. In so holding, the *Frye* court looked to the scientific community and formulated the following rule:

> "Just when a scientific principle or discovery crosses the line between the experimental and demonstrable stages is difficult to define. Somewhere in this twilight zone the evidential force of the principle must be recognized, and while courts will go a long way in admitting expert testimony deduced from a well recognized scientific principle or discovery, the thing from which the deduction is made must be sufficiently established to have gained general acceptance in the particular field in which it belongs."[33]

Accordingly, the court in *Frye* determined that the lie detector test had not gained sufficient recognition among physiologists or psychologists to permit the admissibility of evidence derived from the administration of the test.

Since *Frye*, many jurisdictions have adopted the *Frye* test and applied it in a variety of situations,[34] each with the same result. If the scientific principle, theory, or discovery in question has not gained sufficient general acceptance in the scientific community from which it stems, the evidence arising from the use of such principle, theory, or discovery will not be admissible in a court of law.

Courts that apply the *Frye* test to determine the admissibility of post-hypnotic testimony thus require the party offering the testimony to demonstrate the general acceptance of hypnosis among members of the scientific community. Regardless of the efforts displayed by proponents of hypnosis, courts which apply the *Frye* test to the admissibility of hypnotically induced testimony inevitably conclude that hypnosis, although to a large extent accepted as a viable therapeutic tool, is not generally regarded as a reliable forensic tool by hypnosis experts. This conclusion is not surprising, considering that one need only peruse legal and scientific journals to find a number of articles written by hypnosis experts that warn against the dangers of hypersuggestibility, hypercompliance, and confabulation—dangers that militate against the acceptance of hypnosis as a forensic tool.[35]

Most courts which apply the *Frye* test, however, have been reluctant to declare all post-hypnotic testimony inadmissible. Rather, they have attempted to protect against the dangers inherent in the hypnotic process while, at the same time, preventing the total disqualification of a previously hypnotized witness by excluding only the testimony that is based on hypnotically induced recall. More specifically, these courts permit a witness to testify regarding events known prior to hypnosis but prohibit testimony based on events recalled only under hypnosis. Unquestionably, this position is a compromise designed to preserve the use of hypnosis as an investigative technique under limited circumstances. This compromise is explained by the Arizona Supreme Court in the case of *State ex rel Collins* v. *Superior Court for the County of Maricopa.*[36]

> "As a practical matter, if we are to maintain the rule of incompetence, the police will seldom dare to use hypnosis as an investigatory tool because they will thereby risk making the witness incompetent if it is later determined that the testimony of that witness is essential. Thus, applying the Frye test of general acceptance and weighing the benefit against the risk, we ... hold that a witness will not be rendered incompetent merely because he or she was hypnotized during the investigatory phase of the case. That witness will be permitted to testify with regard to those matters which he or she was able to recall and relate prior to hypnosis."[37]

It is noteworthy that the Arizona Supreme Court in *State ex rel Collins*, like all other courts that have adopted a similar position, requires the prosecution to obtain and record information known to the witness prior to hypnosis. Only that pre-hypnosis recollection is admissible when the witness testifies. Other information obtained from the witness in the hypnotic session is useful for investigative purposes but not as testimony.[38]

"Under current judicial analysis, hypnosis remains a useful investigative technique, and in many jurisdictions, post-hypnotic testimony has evidentiary value."

Inadmissible Per Se

Court decisions in the fourth category of cases concerning the admissibility of post-hypnotic testimony hold that prior hypnosis of a witness is an absolute bar to admissibility of that witness' testimony.[39] Some courts have reached this result by combining the application of the *Frye* test with an analysis of the sixth amendment confrontation clause, concluding that the inherent dangers of the hypnotic process render a previously hypnotized witness completely incompetent to testify. These courts apply the *Frye* test in the same manner as those courts which exclude post-hypnotic recall as testimony. Their analysis, however, also includes an application of the sixth amendment guarantee that all defendants have the right to confront witnesses against them. The right to confrontation embodies the right of defendants to effectively and meaningfully cross-examine witnesses against them.[40] The concern some courts have is that the hypnotic process may irrevocably alter the witness' recall and demeanor so as to deny the defendant the opportunity to confront and cross-examine the witness against him. Particularly troublesome to these courts is the fact that witnesses often become firmly convinced of their recollections made under hypnosis and thereby immunize themselves from the rigors of cross-examination. In *State ex rel Collins*, the court stated the problem as follows:

> "The concern in the area of posthypnotic testimony is that posthypnotic memory may be different than prehypnotic memory. This memory alteration may result from purposeful or unwitting cues given by the hypnotist, the phenomenon of confabulation, and the need for the subject to achieve some sense of certainty within his or her own mind. The basic problem is that if a witness sincerely believes that what he or she is relating is the truth, they become resistant to cross examination and immune to effective impeachment to ascertain the truth."[41]

Thus, the court in *State ex rel Collins*[42] and others with similar reasoning have concluded that because the impervious nature of previously hypnotized witnesses works to deny a defendant his fundamental right to effective cross-examination all posthypnotic testimony is per se inadmissible in a criminal trial.

Although the per se inadmissible rule won fairly wide support from hypnosis experts and legal commentators,[43] most courts have not adopted this extreme approach.

PROCEDURAL SAFEGUARDS

As the analysis of court decisions concerning the admissibility of post-hypnotic testimony indicates, there is continued inconsistency among jurisdictions, and no uniform treatment appears forthcoming. Several State appellate courts which have ruled on the admissibility of post-hypnotic testimony have subsequently modified their own position on this issue.[44] This variance in the way courts look at hypnosis has resulted in confusion on the part of law enforcement. Officers do not have a clear and structured view of when this investigative technique may be judicially accepted in criminal prosecutions.

Most courts that have addressed the issue, even those that hold the extreme position that post-hypnotic testimony is per se inadmissible, have concluded that hypnosis is an acceptable, reliable investigative technique.[45] This conclusion suggests that hypnotically induced recall may be used in furtherance of investigation and to establish probable cause. However, investigators who wish to use hypnosis as an investigative tool are placed in the unenviable position of having to guess whether the testimony of a witness who has undergone hypnosis will be admissible in court. The investigator who chooses to proceed with the use of hypnosis in his investigation risks losing a potentially valuable witness and possibly his whole case, if the court in his jurisdiction takes an adverse position on the issue of admissibility. Therefore, law enforcement officers should be selective in their use of hypnosis and should follow procedures that grant them the greatest likelihood of admissibility. In this regard, the following procedural safeguards, which have evolved in judicial analysis of hypnosis, merit consideration.

First, if an investigator is unsure of a particular court's position on the issue of post-hypnotic testimony, he should use hypnosis only in situations where the potential gains outweigh the risk of prejudice that may result and only after more traditional methods of investigation have failed. To insure further the admissibility of a witness' post-hypnotic testimony, hypnosis should only be used to further a legitimate investigative need and should not be used simply to bolster a witness' confidence.

Second, the investigator who chooses to use investigative hypnosis and desires to have the testimony of hypnotized witnesses admissible in court should consider following the procedural safeguards that were announced in the *Hurd* case.[46] These safeguards require use of a licensed psychologist or psychiatrist trained in the use of hypnosis, who is independent of both prosecution and defense and whose contacts with the witness are both restricted and recorded.

By following these safeguards, the investigator insures the admissibility of the witness' post-hypnotic testimony, if the court in his jurisdiction adopts either the *Harding*[47] per se admissible rule or the limited admissibility rule advanced by the court in *Hurd*. Under both rules, following the safeguards establishes the reliability of the post-hypnotic testimony. Compliance would enhance the witness' credibility in the jury's eyes under *Harding* and establish reliability of the process itself before the court under the *Hurd* rule. Moreover, because the safeguards specifically require the recording of a subject's pre-hypnotic recall, adherence to the safeguards will document, and thereby save, the pre-hypnotic portion of the witness' testimony in the event the court rules that only post-hypnotic recall is inadmissible. As the Arizona Supreme Court required in *State ex rel Collins*, the investigator should always obtain and record information known to the witness prior to hypnosis.

Finally, the reliability of the hypnotic process itself can be improved if both the subject and the hypnosis expert conducting the session are not made aware of the identities of potential suspects or the investigator's theories regarding the case. These precautions will reduce the possibility that the subject's post-hypnotic recall is the product of hypersuggestibility, hypercompliance, or confabulation and further enhance the chances of admissibility.[48]

CONCLUSION

Under current judicial analysis,[49] hypnosis remains a useful investigative technique, and in many jurisdictions, post-hypnotic testimony has evidentiary value. However, investigators who use this technique should take every precaution to insure the reliability of both the hypnotic process itself and the witness' post-hypnotic recall. While most experts believe that the effects of hypersuggestibility, hypercompliance, and confabulation can never be totally eliminated when using hypnosis to enhance recall, strict adherence to procedural safeguards can minimize their effects and provide the best opportunity for admissibility of post-hypnotic testimony.

Footnotes

[1] *People* v. *Schoenfeld*, 111 Cal. App. 3d 671, 168 Cal. Rptr. 762 (1980).

[2] Reiser, "Investigative Hypnosis: A Controversial Technique," *The Police Chief*, August 1984, p. 65. The individual arrested in this case never went to trial because the Arizona trial court disqualified the witness from testifying on the ground that the hypnotic process rendered the witness' testimony inherently unreliable.

[3] The Los Angeles Police Department pioneered the use of "Svengali Squads" in 1970. During the first 5 years of its existence, the Los Angeles hypnosis squad was involved in approximately 70 cases. *See generally*, "The Svengali Squad," *Time*, September 13, 1976, p. 56.

[4] Plotkin, *The Previously Hypnotized Witness: Is His Testimony Admissible?* 106 Military L. Rev. 163, 173 (1984).

[5] *Id.*

[6] *People* v. *Gonzales*, 329 N.W. 2d 743, 746 (Mich. 1980).

[7] *Id. See also, State ex rel Collins* v. *Sup. Ct. for the County of Maricopa*, 644 P. 2d 1266, 1269 (Ariz. 1982).

[8] *Id.*

[9] *Id.*

[10] *See State ex rel Collins* v. *Sup. Ct. from the County of Maricopa*, 644 P. 2d 1266, 1270–71 (Ariz. 1982).

[11] *Supra* node 5, at 746, *See also, Commonwealth* v. *Kater*, 447 N.E. 2d 1190, 1197 (Mass. 1983).

[12] *Supra* note 10, at 1269, citing Margolin, "Hypnosis-enhanced Testimony: Valid Evidence or Prosecutor's Tool?" *Trial*, The National Legal News Magazine, October 1981, pp. 43–44. Although not all experts would concur with the results of this experiment, the court in *State ex rel Collins* relied on its validity, *supra* note 10.

[13] *See generally*, Reiser, *supra*.

[14] The admissibility of testimony given while under hypnosis and evidence of what was said under hypnosis is well-settled. All courts which have considered the question are in agreement that such testimony is inadmissible. *See, e.g., Pearson* v. *State*, 441 N.E. 2d 468 (Ind. 1982); *State* v. *Pusch*, 46 N.W. 2d 508 (N.D. 1950); *Jones* v. *State*, 542 P. 2d 1316 (Okla. Crim. 1975).

[15] 246 A.2d 302 (Md. 1968).

[16] *Id.* at 310.

[17] *Id.* at 311.

[18] *Id.* at 306.

[19] 447 A. 2d 1272 (Md. App. 1982), *aff'd.* 464 A.2d 1028 (Md. 1983). In *Collins*, a differently constituted Maryland court of appeals abandoned the position stated in *Harding* and held that testimony developed through hypnotism was inadmissible.

[20] *See, e.g., Clay* v. *Vose*, 771 F. 2d 1 (1st Cir. 1985); *United States* v. *Awkard*, 597 F. 2d 667 (9th Cir. 1979); *United States* v. *Adams*, 581 F. 2d 193 (9th Cir. 1978); *Crum* v. *State*, 433 So. 2d 1384 (Fla. App. 1983); *Key* v. *State*, 430 So. 2d 909 (Fla. App. 1983); *State* v. *Little*, 674 S.W. 2d 541 (Mo. 1984); *State* v. *Brown*, 337 N.W. 138 (N.D. 1983); *State* v. *Glebock*, 616 S.W. 2d 897 (Tenn. Cr. App. 1981); *Chapman* v. *State*, 638 P. 2d 1280 (Wyo. 1982).

[21] *State* v. *Hurd*, 432 A. 2d 86, 91 (N.J. 1981).

[22] *See, e.g., State* v. *Contreras*, 674 P. 2d 792 (Alaska App. 1983); *State* v. *Iwakiri*, 682 P. 2d 571 (Idaho 1984); *People* v. *Cohoon*, 457 N.W. 2d 998 (Ill. App. 1984); *Gentry* v. *State*, 471 N.E. 2d 263 (Ind. 1984); *Strong* v. *State*, 435 N.E. 2d 969 (Ind. 1982); *State* v. *Luther*, 663 P. 2d 1261 (Or. App. 1983); *State* v. *Jorgensen*, 492 P. 2d 312 (Or. App. 1971); *Walters* v. *State*, 680 S.W. 2d 60 (Tex. App. 1984); *Zani* v. *State*, 679 S.W. 2d 144 (Tex. App. 1984); *Hopkins* v. *Com.*, 337 S.E. 2d 264 (Va. 1985).

[23] *See generally*, Plotkin, *supra* node, 4 184–85. *See also*, *State* v. *Contreras*, 674 P. 2d 792 (Alaska App. 1983); *People* v. *Cohoon*, 457 N.E. 2d 998 (Ill. App. 1984); *Gentry* v. *State*, 471 N.E. 2d 263 (Ind. 1984); *Strong* v. *State*, 435 N.E. 2d 969 (Ind. 1984); *Walters* v. *State*, 680 S.W. 2d 60 (Tex. App. 1984); *Hopkins* v. *Com.*, 337 S.E. 2d 264 (Va. 1985).

[24] *See, e.g., United States* v. *Valdez*, 722 F.2d 1196 (5th Cir. 1984); *United States* v. *Valdez*, 722 F. 2d 1196 (5th Cir. 1984); *State* v. *Iwakiri*, 682 P. 2d 571 (Idaho 1984).

[25] Plotkin, *supra* note 4, at 185.

[26] For a resume of Dr. Orne's qualifications, *see supra* note 10, at 1288, n. 6.

[27] 432 A. 2d 86 (N.J. 1981)

[28] *Id.* at 89–90.

[29] Oregon has adopted similar safeguards by statute. *See*, Or. Rev. Stat. §136.675

[30] *Supra* note 10, at 1290.

[31] *See, e.g., Prewitt* v. *State*, 460 So. 2d 296 (Ala. Cr. App. 1984); *People* v. *Quintanar*, 659 P. 2d 710 (Colo. App. 1982); *State* v. *Atwood*, 479 A. 2d 258 (Conn. Super. 1984); *Felker* v. *State*, 314 S.E. 2d 621 (Ga. 1984); *State* v. *Moreno*, 709 P. 2d 103 (Hawaii 1985); *State* v. *Seager*, 341 N.W. 2d 420 (Iowa 1983); *State* v. *Goutro*, 444 So. 2d 615 (La. 1984); *Commonwealth* v. *Kater*, 447 N.E. 2d 1190 (Mass. 1983); *State* v. *Ture*, 353 N.W. 2d 502 (Minn. App. 1984); *State* v. *Patterson*, 331 N.W. 2d 500 (Neb. 1983); *People* v. *Hughes*, 453 N.E. 484 (N.Y. 1983); *State* v. *Payne*, 325 S.E. 2d 205 (N.C. 1985); *State* v. *Maurer*, 473 N.E. 2d 768 (Ohio 1984); *Robinson* v. *State*, 677 P. 2d 1080 (Okla. Cr. 1984); *Com.* v. *Smoyer*, 476 A. 2d 1304 (Pa. 1984); *State* v. *Coe*, 684 P. 2d 668 (Wash. 1984).

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[32] 293 F. 1013 (D.C. Cir. 1923).

[33] *Id.* at 1014.

[34] *See, e.g., United States* v. *Tranowski,* 659 F.2d 750 (7th Cir. 1981) (photograph dating by mathematical and astronomical calculations); *United States* v. *Kilgus,* 571 F. 2d 508 (9th Cir. 1978) (forward looking infrared system); *United States* v. *Brown,* 557 F. 2d 541 (6th Cir. 1977) (ion micro-probic analysis of human hair); *United States* v. *McDaniel,* 538 F. 2d 408 (D.C. Cir. 1976) (spectographic voice identification); *State* v. *Canaday,* 585 P. 2d 1185 (Wash. 1978) (breathalyzer); *State* v. *Clawson,* 270 S.E. 2d 659 (W. Va. 1980) (hair analysis).

[35] *See, e.g.,* Diamond, *Inherent Problems in the Use of Pretrial Hypnosis on a Prospective Witness,* 68 Cal. L. Rev. 313 (1980); Dilloff, *The Admissibility of Hypnotically Influenced Testimony,* 4 Ohio N.L. Rev. 1 (1977); Sanders and Simmons, "Use of Hypnosis to Enhance Eyewitness Accuracy: Does it Work?" *Journal of Applied Psychology,* vol. 68, February 1983, p. 70; Smith, "Hypnotic Memory Enhancement of Witnesses: Does it Work?" *Psychological Bulletin,* vol. 94, November 1983, p. 387; Timm, "The Factors Theoretically Affecting the Impact of Forensic Hypnosis Techniques on Eyewitness Recall," *Journal of Police Science and Administration,* vol. 11, December 1983, p. 442.

[36] 644 P. 2d 1266.

[37] *Id.* at 1295.

[38] In *State ex rel Collins, supra* note 36, the Supreme Court of Arizona stated that a "review of the literature and the position of law enforcement experts, lead us to conclude that hypnosis is generally accepted as a reliable investigative tool by the relevant scientific community."

[39] *See, e.g., People* v. *Shirley,* 641 P. 2d 775 (Calif. 1982); *State* v. *Conley,* 627 P. 2d 1174 (Kan. App. 1981) (unless both parties stipulate to admissibility); *People* v. *Gonzales,* 329 N.W. 2d 743 (Mich. 1982) subsequently modified by *People* v. *Nixon,* 364 N.W. 2d 593 (Mich. 1985); *State* v. *Pierce,* 207 S.E. 2d 414 (S.C. 1974).

[40] *Pointer* v. *Texas,* 380 U.S. 400 (1965).

[41] *Supra* note 36, at 1274.

[42] The decision in *State ex rel Collins, supra* note 36, which held post-hypnotic testimony to be inadmissible per se, was modified in a supplemental opinion filed in that case. The supplemental opinion of the court declared inadmissible only hypnotically induced recall testimony.

[43] *See, e.g.,* Diamond, *Inherent Problems in the Use of Pretrial Hypnosis on a Prospective Witness,* 68 Cal. L. Rev. 313 (1980); Sanders and Simmons, "Use of Hypnosis to Enhance Eyewitness Accuracy: Does it Work?," *Journal of Applied Psychology,* vol. 68, February 1983, p. 70.

[44] *See, e.g., State ex rel Collins* v. *Sup. Ct. for the County of Maricopa,* 644 P. 2d 1266 (Ariz. 1982) modifying *State* v. *Mena,* 624 P. 2d 1274 (Ariz. 1981); *State* v. *Collins,* 464 A. 2d 1028 (Md. 1983) modifying *State* v. *Harding,* 246 A. 2d 302 (Md. 1968); *People* v. *Nixon,* 346 N.W. 2d 593 (Mich. 1985) modifying *People* v. *Gonzales,* 329 N.W. 2d 743 (Mich. 1982); *State* v. *Peoples,* 319 S.E. 2d 177 (N.C. 1984) modifying *State* v. *McQueen,* 244 S.E. 2d 414 (N.C. 1978).

[45] *See State ex rel Collins, supra* note 36, at 1295. *See also,* Orne, Soskis, Dinges, Orne and Torney, *Hypnotically Refreshed Testimony: Enhanced Memory or Tampering With Evidence?* National Institute of Justice, Issues and Practice, January 1985, pp. 2 and 40.

[46] *Supra* note 21.

[47] *Supra* note 15.

[48] *See generally,* Orne, Soskis, Dinges, Orne and Torny, *supra* note 45.

[49] The U.S. Supreme Court has not ruled on the admissibility of post-hypnotic testimony. If that Court should conclude that the use of post-hypnotic testimony violates a defendant's 6th amendment right to confrontation, then the admissibility question would be resolved in all the States because the States are bound by the proscriptions of the 6th amendment through the Due Process Clause of the 14th amendment.

FBI Law Enforcement Bulletin

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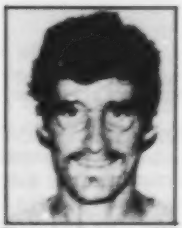
WANTED BY THE FBI



Photograph taken 1969

Right index fingerprint

Leo Frederick Burt,

W; born 4-18-48 (not supported by birth records), Darby, PA; 5′11″ to 6′; 185 lbs; mus bld; brn hair; hazel eyes; med comp; occ-laborer, watchman; remarks: reportedly wears mustache and beard, hair worn long in back. Wanted by FBI for SABOTAGE; DESTRUCTION OF GOVERNMENT PROPERTY; CONSPIRACY.

Fingerprint Classification:

$$\frac{4\ \text{O}\quad 1\ \text{R}\quad 12}{\text{S}\ 17\ \text{Rt}}$$

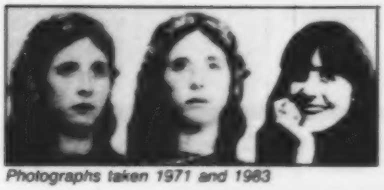
I.O. 4399

Social Security
Number Used 189-40-9409

FBI No. 506 463 H

Caution

Burt is being sought in connection with the destruction by explosives of a building in which one person was killed and several injured. Consider dangerous.



Photographs taken 1971 and 1983

Left ring fingerprint

Mary Kathleen Brooks,

also known as Mrs. Don Luis Church, Mary Kathleen Church, Marjorie Cummings, Mrs. Ron Firmi, Ann Haggerty, Mrs. Colin Marshall, Jane Roach, Mrs. David Henry Sidwell, Gloria Stewart, Mary Walker.

W; born 6-7-50 (true date of birth), 11-10-50, Baltimore, MD (true place of birth), Jarroo, Great Britain, 5′9″; 140–150 lbs; med bld; brn hair; brn eyes; light comp; occ-clerk; remarks: Brooks may be accompanied by her three sons, ages 14, 10, and 8. Wanted by FBI for INTERSTATE FLIGHT—POSSESSION AND DETONATION OF DESTRUCTIVE DEVICES.

NCIC Classification:
POPOPOPOPO23PIPIPIPI

Fingerprint Classification:

$$\frac{23\ \text{O}\ 28\ \text{W}\ \text{OOO}}{\text{L}\ 32\ \text{W}\ \text{I}\ \text{I}\ \text{I}}$$

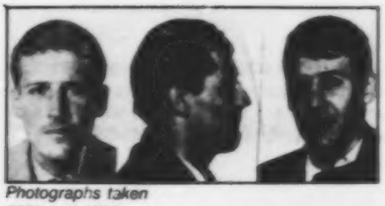
I.O. 4490

Social Security
Number Used 214-54-4597

FBI No. 956 352 H8

Caution

Brooks reportedly has carried a knife. Consider dangerous.



Photographs taken
1964 and 1967

Right middle fingerprint

Vasile Suceveanu,

W; born 5-7-41, Romania; 5′10″; 145 lbs; sldr bld; lt brn hair; hzl eyes; fair comp; occ-coal miner, electrician, farm worker, porter. Wanted by FBI for INTERSTATE FLIGHT—MURDER.

Fingerprint Classification:

$$\frac{16\ \text{O}\ 28\ \text{W}\ \text{OOI}}{\text{L}\ \ 24\ \text{W}\ \text{MII}}$$

I.O. 4331

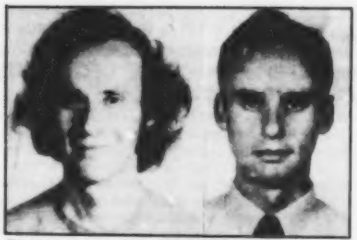
Social Security
Number Used 097-40-3917

FBI No. 407 684 G

Caution

Suceveanu is being sought for murder by handguns committed during holdup. He reportedly has stated that he will not be taken alive. Consider extremely dangerous.

WANTED BY THE FBI

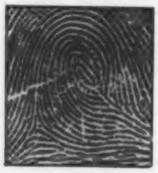


Photographs taken 1971 (retouched)

Ronald Kaufman,

also known as Christopher Charles Mohr, Christopher Curtis Mohr, James Edward Jensen, Charles E. Owens.

W; born 2-5-38, Milwaukee, WI; 5′10″–5′11″; 160–165 lbs; med bld; brn hair; brn eyes; med comp; occ-laborer, office worker, mail handler, radio repairman, research associate; scars and marks: pea-sized birthmark on right ankle; remarks: may wear glasses; stutters when excited; described as extremely intelligent; knowledgeable in the German language; meticulously clean and neat; a loner who maintains a spartan existence; a health foods enthusiast; has been diagnosed in the past as having mental problems and indications of homosexual tendencies. Wanted by FBI for MALAICIOUS ATTEMPT TO DAMAGE AND DESTROY BUILDINGS BY EXPLOSIVES; NATIONAL FIREARMS ACT; FEDERAL RESERVE ACT.



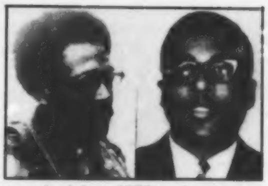
Right middle fingerprint

NCIC Classification:
PMPICOPI16DI17152116
Fingerprint Classification:
17 M 29 W IOI 16 Ref: 29
I 25 U OOO 17

I.O. 4483
Social Security
Numbers Used 389-34-8220; 572-98-1398; 572-98-4495; 398-34-8220; 398-34-3220
FBI No. 242076 J7

Caution

May be armed and should be considered very dangerous.



Photographs taken 1970 and unknown

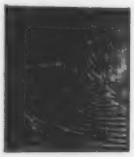
Richard Bernard Thomas,

also known as "Ricky."

N; born 5-25-46, Philadelphia, PA; 6′1″; 170 lbs; med bld; blk hair; brn eyes; med comp; occ-telephone lineman; scars and marks: vaccination scar on left arm, scars on right arm, right thumb, and left leg; remarks: may be wearing gold-rimmed glasses. Wanted by FBI for INTERSTATE FLIGHT—MURDER.

Fingerprint Classification:
20 L 5 R OOO 13 Ref: 13
I 1 R OOO 1

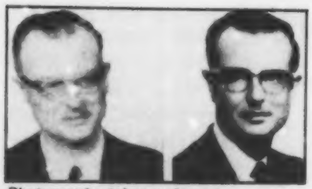
I.O. 4426
Social Security
Number Used 201-36-3251
FBI No. 534590 H



Right ring fingerprint

Caution

Consider armed and extremely dangerous.



Photographs taken unknown

John Emil List

W; born 9-17-25, Bay City, MI; 6′; 180 lbs; med bld; blk (graying) hair; brn eyes; fair comp; occ-accountant, bank vice president, comptroller, insurance salesman; scars and marks: mastoidectomy scar behind right ear, herniotomy scars both sides of abdomen; remarks: reportedly a neat dresser. Wanted by FBI for INTERSTATE FLIGHT-MURDER.

Fingerprint Classification:
23 L 17 W IOI 14 Ref: 17
L 1 R OOI 3

I.O. 4480
Social Security
Number Used 365-24-4674

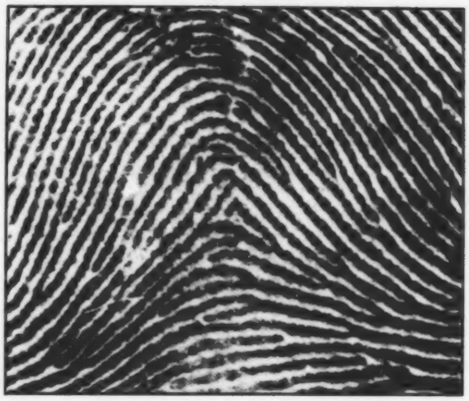
Left index fingerprint

Caution

List, who is charged in New Jersey with multiple murders involving members of his family, may be armed and should be considered very dangerous.

Referenced Pattern

The impression which appears this month is classified as an angular-type tented arch. To be classified as such, the angle must be 90 degrees or less. Due to the exactness required in determining the degree of angle, all angular-type tented arches are referenced to plain arches unless the angle is very acute. The pattern presented is referenced to a plain arch.



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The Bulletin Notes

Officers James M. Powell and Kurt K. Wetzel of the Westminister, CO, Police Department responded to an emergency medical call in January 1985, and found that the victim had suffered a full cardiac arrest. Officers Powell and Wetzel administered CPR until the arrival of paramedics who revived the victim and credited the officers with professional action in saving the victim. The Bulletin is pleased to join their chief in commending these officers for their service to their community.

Officer Powell

Officer Wetzel

J

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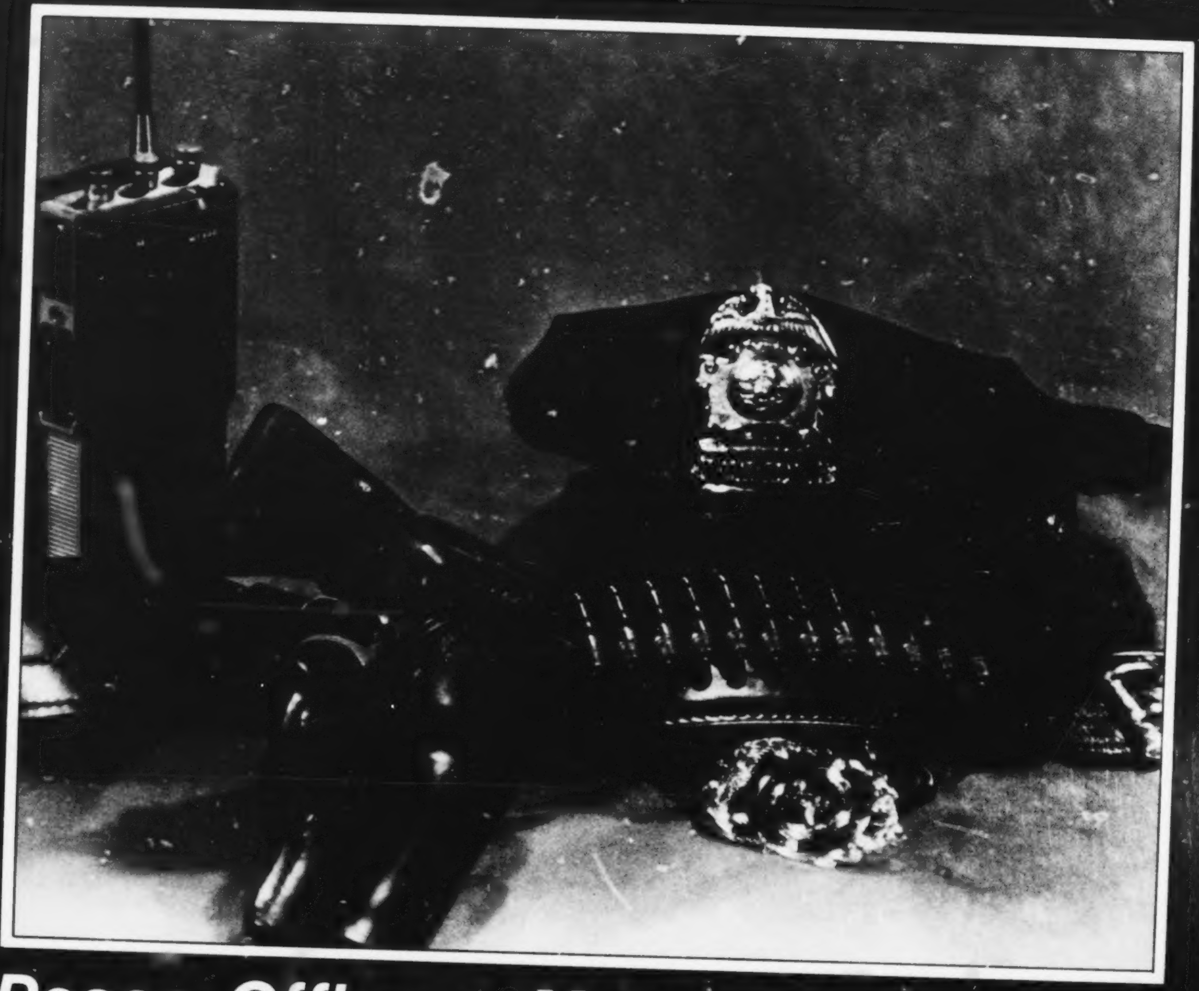

Peace Officers Memorial Day

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The Cover:
With the observance of Peace Officers Memorial Day on May 15th, tribute is paid to those law enforcement officers who made the ultimate sacrifice while keeping the peace and enforcing the law.

FBI
Law Enforcement Bulletin

United States Department of Justice
Federal Bureau of Investigation
Washington, DC 20535

William H. Webster, Director

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Director's Message

This month on the 15th we honor the memory of officers killed in the line of duty with observance of Peace Officers Memorial Day. These guardians of our peace at home died enforcing the laws which we also honor this month on the 1st, Law Day.

The conjunction in the same month of these observances for the rule of law and for those who have died to enforce that law is appropriate, for as one of the first British police historians, Charles Reith, wrote: "(if laws) are not observed, the most perfect laws which the wit of man can devise are useless."

Law Day was established in 1958 by President Dwight D. Eisenhower, who noted for the occasion, "It is fitting that the American people should remember with pride and vigilantly guard the great heritage of liberty, justice and equality under law. . . ." The American Bar Association, which conceived this observance, includes as one of the purposes of Law Day the "support (of) those institutions and persons charged with law enforcement."

To this end 3 years later, President John F. Kennedy approved the law establishing Peace Officers Memorial Day to be observed on May 15th each year. The calendar week that includes this date is celebrated as Police Week. The congressional resolution first establishing this observance in 1962 noted that through slain police officers' "enforcement of our laws our country has internal freedom from fear of the violence and civil disorder that is presently affecting other nations."

Today, unfortunately, violence and civil disorder still affect many other nations, but this country to a lesser degree because we are the beneficiaries of a system of government that answers to the rule of law and is responsible to our citizenry. Our system of government owes its existence to that remarkable document which is 200 years old next year, the United States Constitution.

It is the "rule book" that not only every citizen should understand but particularly every law officer. The Constitution reserves to the individual States the powers that enable each State and local peace officer to "keep the peace" and enforce the law. The Constitution also places restrictions on the police power insuring that American police serve the law, not the government. This has prevented our Nation from developing a totalitarian police system that serves the government instead of the law.

Two hundred years is not a longevity record for a document in the long view of world history, but no other written constitution has lasted this long. No other constitution has survived to celebrate a bicentennial. In fact, two-thirds of the national constitutions have been adopted or revised since 1970; of the 160 national constitutions in the world today, only 14 existed prior to World War II!

As we mark this year's solemn observation of Peace Officers Memorial Day and as we celebrate the bicentennial of our Constitution during the next year, let all of us in law enforcement resolve to do our utmost to carry out our professional obligations in the manner that the Constitution demands of us and the American people expect of us.

William H Webster

William H. Webster
Director
May 1, 1986

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Narcotics

FBI and DEA Join Forces in the Drug Training Effort

By
LAWRENCE J. MONROE
Special Agent
Chief, Inservice and
Student Services Unit
FBI Academy
and
MICHAEL L. MULLEN
Special Agent
Chief, Domestic Training Section
Drug Enforcement Administration
Quantico, VA

The FBI/DEA relationship is no recent phenomenon. Long before the formation of the joint study group in 1985, DEA and the FBI had instituted comprehensive cross-training programs both in the field and on inservice, New Agent, National Academy, counselor/instructor, and supervisory levels. With such groundwork laid, the joint study group unanimously recommended the relocation of DEA's Office of Training from the Federal Law Enforcement Training Center (FLETC), Glynco, GA, to the FBI Academy. Then, on May 24, 1985, with the concurrence of the Director of the FBI and Mr. John Lawn, Administrator of DEA, the Attorney General authorized the transfer, scheduling implementation for fiscal year 1986. The story of the FBI/DEA relationship as it emerged and as it has evolved since the agencies collocated in Quantico on October 1, 1985, is an important one, for the foundation of joint training that has been laid will determine the future

Special Agent Monroe

Special Agent Mullen

of joint field operations, and indeed, this Nation's ability to combat international drug trafficking.

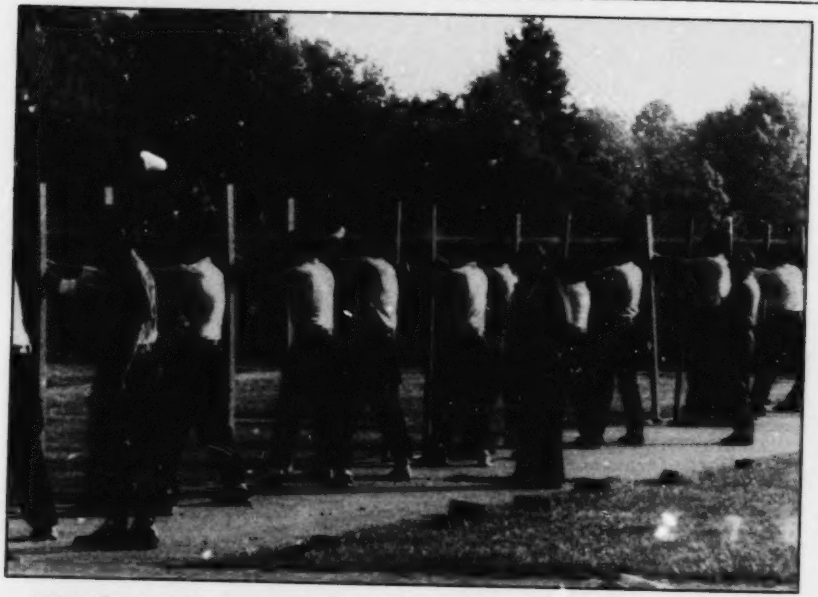
In late 1981, a comprehensive FBI/DEA cross-training program was initiated that was designed to enhance the technical and investigative skills of both agencies' personnel and to increase the effectiveness of future joint field operations. Early training, conducted both in the field and at respective agency training facilities, focused on Title 18 and 21 field orientation sessions, on DEA developing financial investigative training courses with FBI assistance, and on FBI personnel participating in narcotics specialized training at the FLETC. Long term cross-training objectives were established in early 1982 that expanded the program to include the exchange of personnel in many of the two agencies' training programs.

Since the inception of the cross-training program, more than 1,200 DEA Agents have received FBI instruction in such areas as management, media relations, law, firearms, forensic science, crisis management, economic and financial crimes, and organized crime matters. Moreover, DEA's supervisory and mid-level management programs have been conducted on an annual basis at the FBI Academy since 1982. Similarly, in excess of 700 FBI Agents have participated in narcotics specialized training under the auspices of DEA Agents. During this past year, in particular, both agencies accelerated efforts to exchange personnel, including firearms instructors and Agent counselors, to support both agencies' entry-level New Agent training programs. For example, two FBI attorneys and one FBI firearms instructor were assigned to the DEA's Office of Training at FLETC. Other kinds of training initiated in 1985 included the expansion of DEA's participation in the FBI's field training program and the increase of DEA instruction in both the FBI New Agents program and its National Academy program.

Recognizing the importance of the cross-training program and determining to reduce duplication of effort and to improve the effectiveness of investigative operations, a joint study group was assembled in January 1985, to explore the advisability and feasibility of relocating DEA's Office of Training from FLETC to the FBI Academy. When Attorney General Meese authorized the transfer of DEA training functions to the FBI Academy, he described the transfer as a step in the evolutionary process that had been under way since 1982. "For three years now," he said, "the FBI and DEA have worked side by side in the war against drugs with heartening success. Both organizations have special strengths, which makes combining the two so effective in fighting crime traffickers." He added that the considerable compatibility of the two organizations' New Agent training programs indicated the curriculum of each would be enhanced if training was done at a single facility. Furthermore, DEA training was expected to benefit from access to FBI instructors and support services as well as from closer contact with DEA Headquarters in Washington, DC, an hour's drive away.

Accordingly, DEA scheduled its first Basic Agent Class to commence training at the Academy for October 1, 1985—and both agencies were suddenly faced with critical deadlines. The FBI needed to acquire office and allied

"... the foundation of joint training that has been laid will determine the future of joint field operations, and ... this Nation's ability to combat international drug trafficking."



The first DEA Basic Agent Class October 1985
Left: FBI Range
Below: Lecture on cocaine

space that would accommodate a full 18-percent increase in the Academy's resident staff in an already crowded facility, and more importantly, it needed to complete a plan that would provide the ways and means to improve the training process of both agencies. DEA, on the other hand, faced the incredible task of maintaining operations at FLETC through September 13, 1985, while relocating to the Academy the 50 instructors and support staff, equipment, and materials that would start up the October 1st Basic Agent Class without any break in DEA's training schedule. Such relocation, of course, included all the hardships of moving households and families in the middle of the year.

To meet DEA's space and training requirements, approval was granted to accelerate the construction of certain portions of the FBI Academy's long-range development plan, specifically the Academy's Practical Problem Training Complex (PPTC). The PPTC is, in brief, a small city complex that will provide a realistic training environment to develop such practical skills as crime scene investigation, photography, surveillance techniques, mechanics of arrest, raid planning and execution, and moot court training. The first phase of the PPTC, scheduled for completion in the fall of 1986, will include a motel/classroom, a maintenance building, and a practical problem training support center. Additionally, the Academy's photography, graphic arts, and TV studios, its audiovisual reproduction staff, and DEA's audiovisual complement will be located on this site, all of which will increase the realism and effectiveness of the exercises as well as make accessible necessary support services. In future years, the facility is expected to include a courtroom and bank building, to expand as necessary to house incoming DEA programs and personnel, and to improve the overall effectiveness of all Academy training programs.

To understand the magnitude of DEA's relocation, one must understand the structure of its Office of Training. This office is divided into two main sections—the International and the Domestic. The International Training Section, which is scheduled for relocation to the Academy in the near future, trains approximately 1,500 foreign police officials annually, some in the United States and some abroad. Three mobile teams furnish training in foreign nations, and one static team is responsible for providing advanced international drug enforcement training in the United States to senior foreign drug enforcement officers. DEA's foreign training program is funded by the

Below: Deputy Administrator Thomas C. Kelly presenting DEA plaque to FBI Assistant Director James D. McKenzie at FBI/DEA Staff Reception, November 8, 1985.

U.S. Department of State. The Domestic Section, on the other hand, not only provides training for New Agents and veteran DEA personnel but is also responsible for a nationwide training program for U.S. police officials. In 1984, for instance, over 14,750 State and local officers received DEA training assistance.

In large measure, due to the tenacity and dedication demonstrated by DEA's training staff, the first DEA Basic Agent Class graduated from the FBI Academy on December 20, 1985. Representing the Attorney General at the graduation ceremonies was Mr. Stephen S. Trott, Assistant Attorney General, Criminal Division, who extolled the graduates for their perseverance in training and their commitment

Mr. Jack Lawn, DEA Administrator, speaking at DEA's first Basic Agent Class graduation at the FBI Academy, December 20, 1985.

"DEA and the FBI together are a formidable force in the world of international drug trafficking."

to the international drug enforcement mission. Importantly, this historic ceremony symbolized joint FBI/DEA dedication to combat this Nation's number one crime problem.

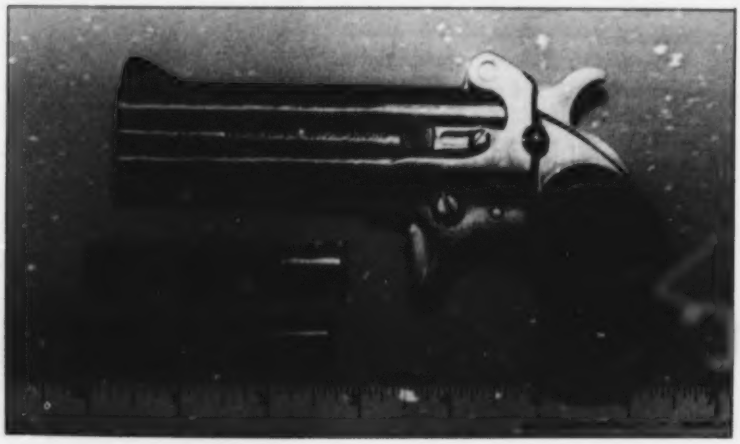
DEA's successful transition to the FBI Academy stands as a testament of both agencies' resolve to integrate key agency functions. DEA will exercise autonomy over its own training program, but it will also have instructional responsibilities in the FBI New Agent and National Academy programs. Already, DEA firearms, physical training, and audiovisual personnel have been assimilated within existing FBI Academy units. While FBI instructors will provide most of the legal and forensic science training to DEA personnel, DEA instructors will provide training to FBI and New Agents personnel in areas such as defensive tactics and firearms proficiency.

DEA and the FBI together are a formidable force in the world of international drug trafficking. Each has special strengths and investigative skills that complement the other, and each selects and produces quality Agents through mission-based training programs. Housed in the same facility, these training programs have already increased in strength and effectiveness. Instructors and trainees alike can easily interchange information and ideas, use enlarged pools of training resources, and develop conformity in the important areas of firearms, legal procedures, forensic science techniques, and physical training. Above all, they can establish and nurture the professional working environment they will need to combat drug trafficking together in the field.

Despite the difficulties and personal hardships that have attended the collocation—and there have been many—a spirit of cooperation among students and staff members has prevailed. Rather than following *the FBI way* or *the DEA way*, personnel of both agencies are seeking the *best* way. The commitment of both agencies to training excellence is as gratifying as it is essential. All would agree with the Director that "training is not an expense, but an investment in the future."

"M–2" Derringer

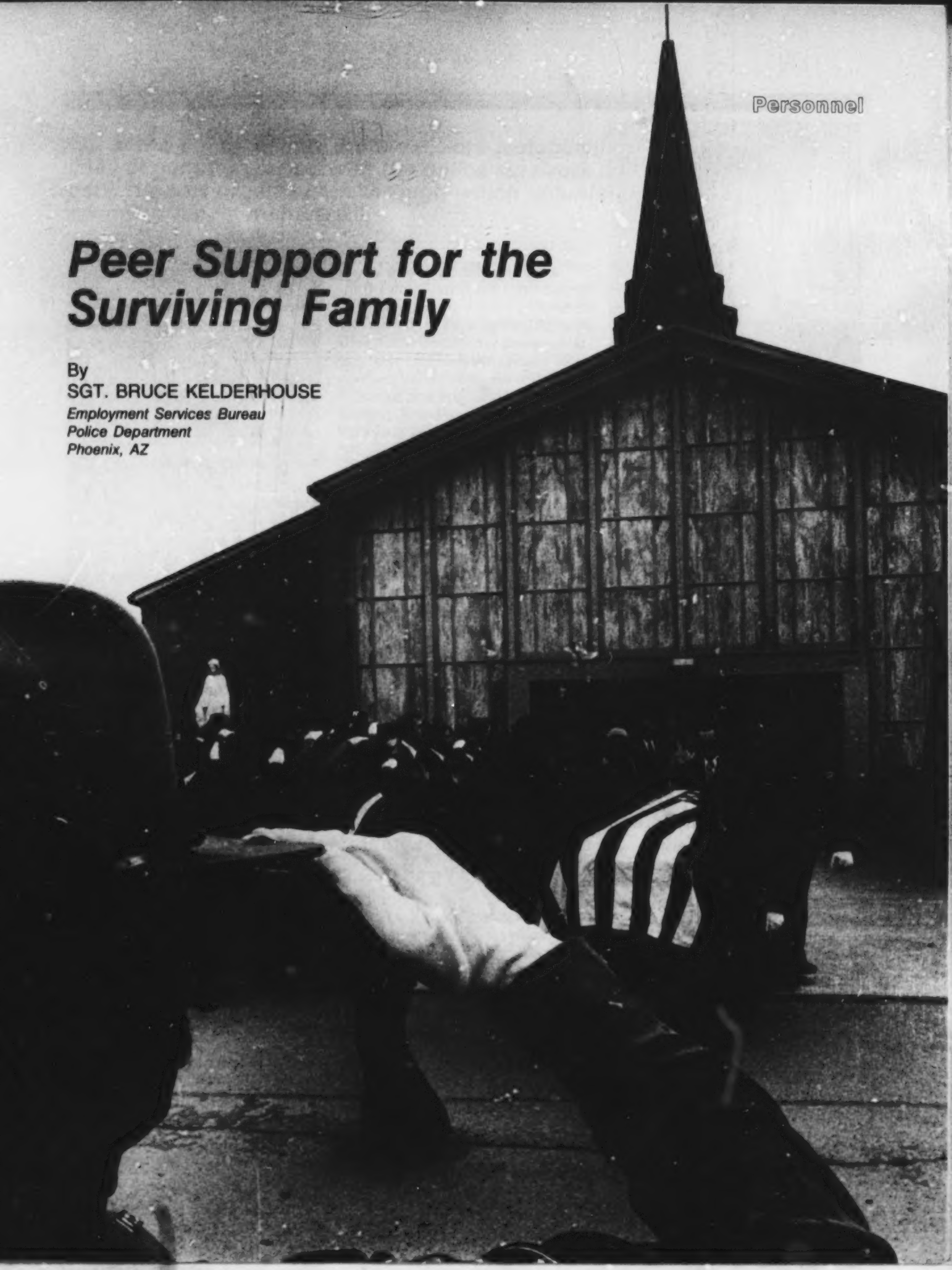
National Park Service Rangers recently discovered pictured weapon in the possession of an outlaw biker. The derringer-type pistol, manufactured in Texas, is legal because part of the barrel is rifled. It is capable of firing shotgun shells in addition to pistol bullets. Officers should be aware of these weapons for their own safety.

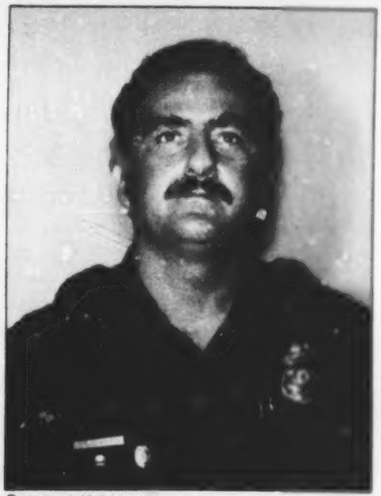


(Photo courtesy of the Tucson, AZ, Police Department)

Peer Support for the Surviving Family

By
SGT. BRUCE KELDERHOUSE
Employment Services Bureau
Police Department
Phoenix, AZ





Sergeant Kelderhouse

Ruben B. Ortega
Chief of Police

What responsibility does a law enforcement agency have toward the secondary victims of our profession? In all probability, there is no local ordinance in any jurisdiction which mandates specific responsibility, other than to facilitate workmen's compensation, pension, and other possible benefits to the survivors of deceased employees. However, there are some police administrators, like those in Phoenix, AZ, who are answering this ethical question in terms of formal lines of communication with the police survivors and an informal peer support organization through which volunteers assist the surviving family members.

There is a thread of commonality which runs through the traditional expectations police managers have for the on-duty performance of their police officers. The basic requirement for "street" performance throughout our country is to provide crisis intervention to meet the current security needs of society. Some management teams are taking this problem-solving approach in their own extended departmental family by assisting to develop networks which are specifically designed to provide for the needs of a slain officer's grieving family through the use of volunteers, many of whom suffered the same loss.

The well-being of our police survivors, although not logically tied to the traditional mission of any law enforcement organization, is a matter which speaks directly to the idealistic motivation of all police personnel. Many police managers who do not subscribe to the "thin blue line" concept of unilateral police interdependency do recognize the bonds of loyalty and brotherhood which exist in our vocational subculture. The loss of any member of the law enforcement community is felt by all who wear a badge. The unspoken message contained in the solemn honor of a "police funeral" is of concern and support to the grieving family, as well as tribute to a fellow officer.

Unfortunately, after the funeral, most police survivors are left with empty statements of emotional commitment ringing in their ears from well-meaning law enforcement personnel. The concern and support for the grieving family is rarely translated into sufficient action. The offer of "call me if you need anything" becomes sadly impossible, as the widow or widower feels isolated from the very agency for which a spouse died serving. Many feel physically and emotionally deserted by the police agency which should be one of the greatest sources of emotional support.

The Phoenix Police Department is combating this perceived lack of support through an organized support system. The death crisis intervention of the department consists of a formalized procedure, assignment of a Personnel Bureau supervisor in an attempt to manage the logistic and human concerns of the situation, and use of a volunteer police survivor support group.

A formalized written procedure, in planning for any eventuality, is an accepted approach to sound management. Many police departments have written policies on police funerals and applicable financial death benefits and/or policies which dictate proper procedure for death notification, contact of local fraternal or charitable agencies, etc. Only a few police

> ***". . . some police administrators . . . are [establishing] . . . formal lines of communication with the police survivors and an informal peer support organization through which volunteers assist the surviving family members."***

agencies have adopted a written policy which also directs agency personnel to perform nontraditional duties of crisis management.

The Phoenix Police Department has one supervisor assigned to counsel the family, muster the assistance of resource agencies, and assist in planning and organizing to manage the residual effects associated with an employee's death. This individual is assigned to the family as soon as there is an apparent need. Assuming that the supervisor can establish an effective and trusting relationship with the family, there is an opportunity to provide the much-appreciated service to the family that all law enforcement agencies would wish to have, but have yet to discover the vehicle which could be used to deliver these services.

The "active listening," counseling-trained supervisor must rely on his communication skills to facilitate the grief process and determine situational needs. Sometimes, police personnel exhibit inappropriate, emotionally detached behavior to police survivors because of an individual problem of coping with the sometimes overwhelming grief associated with a fellow officer's death. All police officers must remain "tough" to survive, but as Christina Maslack and Susan Jackson reported in *Psychology Today*, "More subtle, and yet, more important is the policeman's carefully developed tough skin—his emotional cool, his suspiciousness, and his sense of caution—which cannot be taken off and put away as easily as his uniform. These qualities become second nature to him, an integral part of relating to all people. . . ."[1] The supervisor that is assigned to work with the family should be able to exhibit tender, caring emotions, which will help the family to communicate their needs and yet remain effectively objective to meet the situational demands.

The Phoenix supervisor is responsible for assisting the family by coordinating the services of volunteer support groups. Volunteer support groups, like the nationwide Concerns of Police Survivors (C.O.P.S.), can provide the emotional support that is so desperately needed by the grieving family. The emotional support that police survivor groups supply is given and accepted with the common understanding of the unique tragedies of an "in-line-of-duty" death. The Phoenix police supervisor and survivor volunteers attempt to ease the grief process of the family.

The Phoenix police survivor support group provides continual assistance to one another and identity to law enforcement through affiliation with the Phoenix Police Department. The volunteers, many of whom have lost a loved one in a line-of-duty death, give their time to listen to another survivor with a personal crisis.

The existence of organizations, such as Concerns of Police Survivors, substantiate the need for law enforcement agency affiliation. The memory of the officer's death brings to the family a sense of loss and yet prideful satisfaction in the caliber of a person he or she was.

Many agencies have family members of deceased police officers living within their jurisdictions who they can help. The emotional support from the agency and police survivor group is accepted by the family because they recognize the commonality of grief and law enforcement identity that is shared by all concerned. Bereavement and loss induce an affinity in all surviving families. Many police survivors have a special kinship with law enforcement officers and law enforcement agencies, because we in law enforcement, as well as our families, recognize that all people face death at some time, but police officers routinely confront the limits of their own mortality. It might be advisable for all managers who are inclined to assist their extended departmental family of police survivors to consider similar policies and use of volunteers as a vehicle for the delivery of support services.

FBI

Footnote

C. Maslack and S. Jackson, "Burned Out Cops and Their Families," *Psychology Today*, May 1979, p. 81.

Concerns of Police Survivors

In 1982, 10 young police widows traveled to Washington, DC, to attend National Peace Officers Memorial Day and then shared with each other the tragic details of their spouses' deaths. They also shared their experiences that followed, many of which were also appalling and lamentable, and their fears for the future. Each realized that something must be done to help other police survivors and to work to make things easier for those who would one day suffer the same loss. From this fledgling group arose Concerns of Police Survivors (C.O.P.S.)

C.O.P.S. is a nonprofit, tax-exempt organization funded by a grant from the National Institute of Justice. Its purpose is to minister to the special needs of police survivors and to focus on the problems facing them.

The main thrust of C.O.P.S. is a National Police Survivors Seminar held during the week of the National Peace Officers Memorial Day. Widows, children, parents, and siblings of fallen law enforcement officers are invited to attend the 2-day seminar. During the individual sessions, grief counselors, victim rights' advocates, government officials, and child psychologists address the problems police survivors face in their attempt to bring normalcy back into their lives. Police survivors are also called upon to tell of their anxieties and the problems they faced with the community, the press, the criminal justice system, and perhaps, even the police department for which their loved ones worked. These seminars also provide the survivors a chance to meet, to grieve together, and to find strength in one another.

C.O.P.S. reaches out to help America's police survivors, with the goal of educating police families and police departments so that the survivors can learn to cope with the tragic, often violent, loss.

For further information, contact:

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Law Enforcement Officer Killings Rise

Seventy-nine law enforcement officers were killed feloniously in the line of duty in 1985, according to preliminary Uniform Crime Reporting figures. Last year's total was up from the 72 officers slain in 1984. Law enforcement agencies have cleared 74 of the 79 slayings occurring in 1985.

Firearms were used to kill 70 officers last year. Handguns were used in 58 of the murders, rifles in 3, and shotguns in 9. Among the remaining victim officers, 5 were killed when intentionally struck by vehicles, 2 with blunt objects, 1 with personal weapons (hands, fists, feet, etc.), and 1 with a knife.

Thirty officers were attempting to apprehend or arrest suspects when slain. Among those 30, 12 were attempting to thwart robberies or were in pursuit of robbery suspects, 6 were involved in drug-related situations, 4 were responding to burglaries, and 8 were attempting arrests for other crimes.

Sixteen victims were killed while enforcing traffic laws, 13 upon answering disturbance calls, 9 while investigating suspicious persons or circumstances, and 7 were ambushed. Four officers were murdered while handling or transporting prisoners.

Geographically, 36 officers were killed in the Southern States, 15 in the Midwestern States, 11 in the Northeastern States, 10 in the Western States, 6 in Puerto Rico, and 1 in Mexico. Forty-four of the victims were city police, 21 were county officers, 13 were employed by State law enforcement agencies, and 1 was a Federal officer.

"Terrorism as a Crime"

"The cooperation of the law enforcement community is vital for the successful investigation of terrorist activity."

By
WILLIAM H. WEBSTER
Director
Federal Bureau of Investigation
Washington, DC

These remarks were presented before the International Association of Chiefs of Police annual meeting in Houston, TX, on October 15, 1985. Director Webster asserted that terrorism continues to be one of the most challenging crime problems confronting the international law enforcement community. Cooperative investigative efforts—combining the resources and expertise of Federal, State, and local agencies—have proven effective in combating terrorism.

It is as an international association that I should like to address you today. The shrinking world in which we live has created similar crime problems for all of us. Narcotics traffickers continue to employ new techniques to smuggle their illicit drugs into our countries. International financial institutions are used by criminal enterprises to disguise and launder their illegal profit. Organized criminal groups attempt to spread their corrupt influence and control throughout the world.

These are but a few of the many challenges confronting today's law officers. But I'd like to discuss another serious crime problem facing our cities and indeed the countries represented here—the cold, stark, fear-producing word "terrorism." In the past year, we have seen an innocent air traveler murdered and others held hostage in Beirut. American Marines in El Salvador have fallen victim to terrorists' bullets, evoking again the terrible tragedy of our Marines in Beirut and our embassy in Beirut and Kuwait. Here in the United States, right-wing terrorist groups espousing racial hatred have waged a war of arson, robbery, and murder.

This past week, we have experienced the theater, the politics, and the media attention surrounding a terrorist incident in the Mediterranean. Behind all the political rhetoric being hurled at us from abroad, we are bringing home one unassailable fact—the wanton act of violence out there was a crime by any civilized standard, committed against innocent people, away from the scene of political conflict and must be dealt with as a crime. All of us experienced, I think, and shared the exhilaration that came with knowing that the President's incisive action would at least demonstrate that we could be effective against this kind of assault on American citizens outside the United States.

But in our recognition of the nature of terrorism as a crime lies our best hope in dealing with it. To deal effectively with these threats to society, it is essential that the law enforcement community understand the basis of terrorism. At the FBI, we define terrorism as "the unlawful use of force or violence to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives."

In pursuit of these objectives, the terrorist invariably resorts to violence to emphasize ideological statements or to reinforce political demands. To the terrorist, violent actions are the means for political change. How foreign to the provisions of our Constitution which permit change by lawful means according to the will of the people.

Some may argue that one man's terrorist is another man's freedom fighter. But the late Senator Henry Jackson drew the distinction quite clearly when he said, "Freedom fighters don't assassinate innocent businessmen, or hijack and hold hostage innocent men, women and children;

"We must be relentless in our efforts to bring terrorists to justice."

terrorist murderers do." Jackson also added, "It is a disgrace that democracies would allow the treasured word 'freedom' to be associated with acts of terrorists."

Democracies have always been—and I suspect will continue to be—the targets of terrorism. Our constitutional rights, the limits on police action, and the due process of the law which sometimes seems unduly attenuated—the very qualities that terrorists despise in our society—are also the qualities that make us vulnerable to acts of terrorism. Although we may feel frustrated by this irony, free societies also have the necessary tools to fight and even prevent terrorism before it occurs. Tried and true law enforcement techniques—the showing of probable cause, the use of court-authorized surveillance, search warrants, and grand juries—enable us to fight terrorism in the United States as the *crime* problem it is.

By using established crime-fighting procedures, we can ensure that the terrorist does not upset the critical balance between the rights of the individual and society's right, as a whole, to protection. A government that reacts to terrorism by repressive measures and suspends individual liberties plays into the hands of terrorists. It is important that we do not signal that our nations are under siege. This is a message we never want to communicate to the terrorists.

By separating the crime from politics, those of us charged with law enforcement can begin the task of responding to the threat of terrorism. In the United States, the FBI is the lead agency in investigating terrorism. We have authority to conduct domestic terrorism investigations under Attorney General guidelines. The FBI also investigates cases of international terrorism that occur inside the United States. International terrorism originates outside the United States and the terrorist activity transcends national boundaries. Attorney General Counterintelligence Guidelines establish FBI authority for these investigations.

Our goal is to detect, and where possible, prevent domestic and international terrorist activity in the United States. By utilizing all of the investigative tools available—informants, electronic surveillance, and undercover agents—we have achieved successes in reducing terrorist incidents here. In 1977, there were 112 incidents of terrorism in the United States. By 1982, we had reduced that number to 51. In 1983, despite all of the activity we had, there were 31 terrorist actions; and in 1984, with the World's Fair, the Olympics, and two national conventions, there were but 13. So far in the 10th month of this year we have experienced only four incidents of terrorism in the United States, although I must report to you that the incident in Los Angeles just a few days ago—the assault on the Arab-American Anti-Defamation League, and the murder of its executive director—will very probably become number five. Still, that is a very low number compared with 112 in 1977. But of even greater importance, we have prevented at least 23 separate acts of terrorism in the United States this year alone. Getting there before the bomb goes off becomes a realizable objective.

While we are the lead agency in meeting the challenge of terrorism in the United States, many incidents occur beyond our borders. In many cases, the FBI may have extraterritorial jurisdiction to investigate these international terrorist incidents. The Protection of Foreign Officials Act has allowed the United States to investigate the bombing of the American embassy in Lebanon, as well as the Marine killings in El Salvador. And these investigations have produced extremely helpful material. The Comprehensive Crime Control Act of 1984, a tremendous boost forward for all of us in law enforcement, has given us jurisdiction in air piracy and hostage taking cases that involve U.S. carriers and U.S. citizens, such as the hijacking of TWA flight 847 which we are currently investigating. And of course, we are deeply involved in the investigation of the hostage taking on the Italian cruise liner, Achille Lauro. FBI teams are in Italy. An FBI Agent has flown to Damascus with evidence we hope will be useful there. And other steps have been taking place internationally to pursue to justice the fugitives in that case, and we will support fully all of the work of the Italian authorities under the Italian magistrate.

The cooperation of the law enforcement community is vital for the successful investigation of terrorist activity. Terrorist cases often combine the jurisdiction of State and local, national and international agencies. To prevent the duplication of efforts, cooperation must replace the competition that might otherwise exist among law enforcement personnel. In 1979, the FBI and the New York City Police Department formed a joint task force to coordinate bank robbery investigations in the city. Both agencies signed a memorandum of understanding that clearly outlined task force responsibilities and administrative duties. The joint task force was better able to utilize valuable personnel and technical equipment. The task force cut through bureaucratic red tape to gain quick access to both the New York City Police Department's and the FBI's law enforcement resources. That new sense of professional comradeship resulted in a very significant reduction in the number of bank robberies in the New York City area. This successful experience soon led to the formation of a joint FBI/NYPD terrorism task force.

These task forces combined their efforts in 1981 when a Brink's armored car was robbed of $1.6 million in Nanuet, NY. Two police officers and the security guard were killed as a result of this robbery. Cooperation among the New York City Police Department, the New York State Police, the New Jersey State Police, the Rockland County District Attorney's Office, the Nyack Police Department, and the FBI helped to identify a previously unknown community of terrorists. This terrorist network consisted of various left-wing groups—several leftover radicals from the 1960's—who financed their operations by committing crimes throughout the United States. This investigation provided invaluable information about how terrorist groups operate in the United States, and as the scope of the investigation widened, the task force was initiated in FBI field offices throughout the United States. The joint task forces have been directly involved in the collection of intelligence and directing investigative activity that led to the arrest of two fugitives in this investigation—Marilyn Buck and Dr. Alan Berkman.

The terrorism task forces on the east coast have been vital to the investigation of several domestic terrorist groups, including the United Freedom Front, the Armed Resistance Unit, and the May 19 Organization. These groups have been charged with a series of robberies and bombings on the east coast. A valuable lead developed by a State trooper assigned to the Connecticut task force led to the arrest of some of the principal players in these investigations, including Raymond Luc Levasseur, who at that time had been on the FBI's Ten Most Wanted List since 1977.

Internationally, the United States has been the principal target of terrorist activity in stark contrast to the diminished record within the United States. The U.S. State Department has estimated that over 40 percent of terrorist activity in the past 10 years has been directed against U.S. citizens, institutions, or property. The most recent events in the Mediterranean only underscore this international threat to our citizens. In recognition of this international problem and immediately following the hijacking of TWA flight 847, President Reagan appointed a task force on combating terrorism. This task force, chaired by Vice President Bush, has been created to review the entire scope of the U.S. Government's efforts against terrorism, particularly abroad. To emphasize his own concern, the President appointed the Secretary of State, the Secretary of Defense, the Attorney General, and seven other cabinet officers and agency heads, including myself, to this task force. President Reagan has directed the task force to review all U.S. policy and capabilities in combating terrorism. The task force is composed of a staff working group, a research and analysis group, and a senior review group, all headed by former Chief of Naval Operations, Adm. Jim Holloway. Executive Assistant Director Buck Revell is the FBI's representative on this review group. The task force will also receive input from outside the executive branch. Members of Congress, retired military personnel, distinguished statesmen, and concerned citizens will make further recommendations on how to improve our capability to deal with terrorism.

We have made tremendous progress here at home working with law enforcement agencies around the world. We can, we must come to grips with this mounting international crime. Progress in the United States, in the United Nations, and in the Interpol organizations gives us hope that other countries of the world formerly willing to put these issues aside as political rather than questions of crime and law enforcement are now focusing upon that area which clearly is a crime, which affects innocent persons outside the zone of conflict, and which would be a crime in any nation of the world. They are willing to give assistance to the nations suffering the terrorists assaults.

Finally, there must be no doubt about our resolve. We must work within our own laws and within the treaties and protocols that exists between cooperating nations. We must be relentless in our efforts to bring terrorists to justice. As President Reagan said last week, the message is, "You can run, but you can't hide." Our legal systems throughout the world may not always mesh. Political considerations may sometimes seem to intervene. But let us use the tools that we have. Let us invoke the cooperation we have a right to expect around the world, and with that cooperation, let us shrink the dark and dank areas of sanctuary until these cowardly marauders are held to answer as criminals in an open and public trial for the crimes they have committed, and receive the punishment they so richly deserve.

Interagency Agreement

By
CHIEF MELVIN KILBO
Police Department
Orono, MN

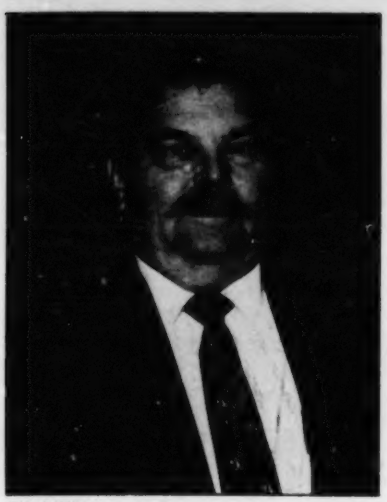
"Cooperation between municipal police and the sheriff's department is . . . an important aspect of law enforcement's pledge to serve and protect the community and its citizens."

Officer Mark Tomczyk, Orono PD and Deputy Robert Fischer, Hennepin Co. SO

EDITOR'S NOTE: This article is primarily of interest to small law enforcement agencies. According to Uniform Crime Reporting figures, 4,362 (70%) of the 6,161 police departments in the United States have less than 25 employees. This could lead to the staffing problem addressed in this article.

Much has been written about the need for cooperation between law enforcement agencies. Proof of such cooperation exists in Hennepin County, MN. The Orono City Council and the Hennepin County Board came to an agreement whereby a sheriff's deputy came to work for the City of Orono because of the long term absence of a city officer injured on duty. The agreement was set forth under powers rendered by Minnesota State Statute 436.05, which allows a sheriff to furnish supplementary service to a municipality, and under the Joint Powers Agreement pursuant to Minnesota State Statute 471.59. It is a credit to both units of government and their staffs that this agreement was completed.

On February 1, 1985, an Orono officer was injured in a head-on accident, in which his squad car was totaled. The police department was able to compensate for the injured officer's absence by having fellow officers work overtime. However, by the middle of August, the officers were "burned out" and requested relief from overtime duties. The injured officer's status under workmen's compensation would not reach maximum rehabilitation for approximately 4 months, requiring the city administrator and police chief to look for solutions to the problem. Several options were examined before the city requested assistance from the Hennepin County Sheriff's Department.



Chief Kilbo

In a preliminary discussion, the sheriff was asked if he could assign a deputy sheriff to Orono to cover the injured officer's position until December 31, 1985. The sheriff's department believed it would be appropriate to honor this request in view of the department's efforts to assist and supplement law enforcement in the county.

During a meeting attended by administrators of both agencies, a mutual agreement was reached. The agreement stipulated that from September 1, to December 31, 1985, the sheriff would provide to the City of Orono one post-licensed deputy sheriff who had at least 1 year of patrol-related experience. This deputy would be sworn in as a police officer and be subject to the control and supervision of the chief of police or his designee. He was also required to adhere to the department's rules and regulations, including personnel rules, and if discipline was warranted, such discipline must be approved by both parties. The agreement further stated that general law and traffic enforcement services would be within the jurisdictional limits of the City of Orono. If needed, the agreement could be renewed with the consent of both agencies.

According to the agreement, the deputy would remain on the sheriff's payroll, and the sheriff would then bill the City of Orono for actual costs. With regard to liability, indemnification, and insurance, the city agreed to a "hold harmless agreement" to the sheriff's department and also to provide the county with sufficient liability insurance. The municipality also agreed not to hire the deputy as a municipal police officer or for any other purpose for a 1-year period from the termination date of the agreement. Vacation, holiday pay, and sick leave were all covered within the agreement, as was a cancellation clause.

Since the assignment was to commence at the end of the boating and vacation season, the sheriff assigned a 12-year veteran from the water patrol division to the municipal police agency. Deputy Robert J. Fischer had prior experience with two municipal departments before joining the sheriff's department. While in the sheriff's force, he served as a jailer and a deputy in the patrol division.

As stated in the agreement, Deputy Fischer wore his sheriff's uniform and drove an Orono squad car. Although he had been working for the county in a rural area with major highways running through it, some differences were experienced. These included more calls for service in a smaller area of travel, more alarm calls from residents and commercial businesses, and better backup response times.

Deputy Fischer brought with him a willingness to work, doing needed followup on cases received during his tour of duty. He was also aware of and assisted Orono officers with overweight/overwidth truck violations, making numerous arrests.

No complaints were received from citizens concerning a deputy working in a municipal squad car, although there were some surprised expressions. And acceptance from Orono officers has been excellent. The most important factor to the City of Orono was that the department was up to complement, taking pressure off the patrol officers.

Cooperation between municipal police and the sheriff's department is possible and is an important aspect of law enforcement's pledge to serve and protect the community and its citizens.

FBI

". . . an agency or department should establish preventive measures and have a clearly defined policy for the care of [training] injuries."

Management of Training-Related Injury

By
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Physical Techniques Division
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Law enforcement training programs must be physically strenuous and demanding if they are to meet the needs of the profession. The very nature of an aggressive program makes injuries in the training setting commonplace. Because a certain number of injuries are inevitable, an agency or department should establish preventive measures and have a clearly defined policy for the care of these injuries. The key objectives of the policy should be the elimination, or at least minimization, of the amount of training time lost to injuries (TTLI) and the return of the trainee to full participation as safely and quickly as possible. A TTLI is defined as any training-related injury which necessitates the alteration or elimination of any scheduled training activity. For example, if an ankle sprain prevents a student from participating in a class run, the injury is classified as a TTLI.

At the Federal Law Enforcement Training Center (FLETC), the responsibility for injury prevention is placed with the athletic trainer of the Physical Techniques Division (PTD), Office of Special Training. This function was established in June 1976, with injury prevention, analysis, and care being its main objectives. The branch is currently staffed with three National Athletic Trainers Association certified athletic trainers (ATC); two are permanent employees and one is a graduate student intern who is appointed on a 1-year basis. The athletic trainers operate under the supervision of the medical officer, and all treatment procedures are under his direction. Constant communication between the athletic trainer and the medical officer is of utmost importance for cohesiveness of this function. Weekly meetings are conducted between the senior athletic trainer and medical officer to discuss patient progress and restrictions and to plan treatment strategy involving the more-complex cases.

The function is fully equipped with the latest physiotherapy equipment, including whirlpools, ultrasonic/muscle stimulation, and cold treatment units. A wide range of rehabilitation equipment, such as the weighted ankle boot, exercise bicycle, and upper leg develop-

Dr. Callicutt

Charles F. Rinkevich, Director
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ment table, is used on a continuous basis to insure the safe return of the injured trainee to full training status as quickly as possible.

At the time of injury, the athletic trainer handling the case compiles a complete history of the trainee. The history includes such pertinent information as the name of the injured student, Social Security number, week of training, date, time, class number, general nature of the injury, how it occurred, name of the instructor supervising the class and the trainer, and the trainer's clinical impression (which can be defined as opinions of the conditions of the injury). There is also a standard Privacy Act explanation and a certification that the injury was sustained in performance of duty, which is verified by the student.

An injury analysis form is also a primary part of the initial history procedure. Injury analysis is performed by a computer program coupled to the FLETC central computer system with a terminal located in the athletic trainers' office. The program is designed to analyze the following data:

—Visit type (new or prior injury, etc.),

—Location of injury (right, left, etc.),

—Body part involved (trunk, ankle, etc.),

—Injury type (sprain, strain, etc.),

—Activity involvement at time of injury (running, defensive tactics, etc.),

—Injury cause (lifting, blow from person, etc.),

—Surface on which injury occurred (sand, carpet, etc.),

—Whether there was a warmup prior to the activity,

—Whether shoes were worn,

—Whether the trainee had regular exercise habits prior to attending the FLETC,

—Time of injury,

—Number of hours of training time lost (TTL),

—Therapy performed (whirlpool, cold packs, etc.), and

—Rehabilitation used.

Treatment

All treatment should be under the direction of a physician. This is of paramount importance to insure the health and well-being of the student and to protect the trainer and the agency from future litigation involving acts of negligence. The physician prescribing both treatment and medical restrictions should be apprised of the type of training activities that are required of the student. A member of the training staff should accompany the injured student to the hospital or physician's office in order to ensure the well-being of the officer and to establish a direct line of communication between the medical community and the agency.

Treatment need not be complicated, but it should be correct and consistent. For many years, trainers and physicians have worked under the premise that there is no proven method of treatment that will speed the human body's natural healing processes, but that correct treatment procedures can facilitate healing.

Emergency treatment should consist of ice, compression, elevation, and protection. The first three elements—ice, compression, and elevation—will aid in the reduction of swelling, and therefore, make the injured trainee more comfortable. The

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fourth element, protection, will tend to prevent further injury and pain.

Ice can be applied by the use of crushed ice, cold water, or commercially prepared chemical ice packs. Compression can be as simple as leaving a shoe on an injured foot or ankle. Also, elastic bandages are a universal method of providing uniform compression to an injured joint. Elevation can be achieved by the use of an arm sling or by simply placing the injured limb above the rest of the body.

The protection phase can be as simple as preventing the trainee from walking on or moving the injured part of the body. The entire process can be remembered as "ICEP" (ice, compression, elevation, protection.)

Class Injury Analysis

For research purposes, seven police training classes and seven criminal investigator classes totaling 504 students were analyzed for injury frequency and cause. One hundred and sixty eight students were attending a 9-week police training program designed for land management personnel who have law enforcement responsibilities. Among the organizations involved in this program were the National Park Service, U.S. Fish and Wildlife Service, and U.S. Forest Service. In addition to numerous other

"The first and foremost aspect of injury prevention is stretching and proper warmup."

training courses, these students received instruction in arrest techniques and defensive tactics. They also participated in a five-item physical assessment test (PEB) consisting of agility, body composition, flexibility, strength, and cardiovascular endurance.

The criminal investigator classes consisted of 336 students attending a 8-week course designed for agencies such as U.S. Secret Service, U.S. Marshals Service, Bureau of Alcohol, Tobacco and Firearms, and criminal investigators of the various Inspector General offices. Their program consisted of similar training in arrest techniques, defensive tactics, and a physical assessment.

Review Of Data

Following the review of injury data, it was determined that off-duty recreation accounted for the largest percentage of injuries—34 percent in the criminal investigator (CI) program and 23 percent in the police training (PT) program. Off-duty running was the leading cause of injuries in the CI program, followed by basketball, weight training, and racquetball. Running injuries were also the primary category in the PT program, followed by basketball and weight training activities. This comes as no great surprise since a total of 46,973 students participated in the FLETC recreation program during the study. The program is viewed by all concerned as a superior vehicle by which to promote morale and establish rapport within the almost 60 participating organizations using FLETC. (See figs. 1 & 2.)

Figure 1

Injury Frequency Analysis

ANALYSIS AREA	*INVESTIGATOR CLASSES*	*POLICE CLASSES*
Total Number of Students	336	168
Total Number of Injuries	98	94
Total Number of PEB Injuries	11 (11%)	8 (8%)
Greatest Risk Areas		
Off-Duty Recreation	34%	23%
Basketball	32%*	5%*
Racquetball	20%	*
Running	47%*	15%*
Weight Training	29%*	2%*
General Conditioning	22%	
Defensive Tactics	9%	18%
Most Frequent Injury Sites		
Leg/Knee	62%	60%
Arm	20%	17%
Trunk	10%	15%
Head/Neck	9%	
Lost Time Participation (LTP) Injuries		
LTP Injuries	8	19
Number of LTP Hours	11	42
Average Number Hours Lost Per LTP	60	2.3

**Percentage breakdown of total off-duty injuries*

Figure 2

PT/CI Class Injury Analysis

ACTIVITY	HEAD/NECK INJURIES		TRUNK INJURIES		ARM INJURIES		LEG/KNEE INJURIES		OTHER INJURIES		TOTAL INJURIES	
	CI	PT	CI	PT	CI	PT	CI	PT	CI	PT	CI	PT
General Conditioning	3	2	4	4	4	12	17	11	0	0	28	29
Defensive Tactics	3	1	1	2	2	11	3	3	0	0	9	17
Arrest Techniques	0	0	0	0	1	1	1	1	0	0	2	2
PEB:												
Agility	0	0	0	0	0	0	4	1	0	0	4	1
Flexibility	0	0	0	0	0	0	0	0	0	0	0	0
Bench Press	0	1	1	2	1	0	0	1	0	0	2	3
1.5 Mile Run	0	0	0	0	0	0	5	3	0	0	5	3
Intramurals	0	2	0	0	1	2	4	2	0	0	5	6
Off Duty	0	0	3	2	11	0	26	18	1	1	41	22

Evaluation Of Injury Data—Program Review

At the culmination of each class, the senior athletic trainer meets with the assistant chief of the Physical Techniques Division to discuss prime injury-producing training activities. Preventive strategies are discussed, and if needed, changes in instructional techniques and other modifications are implemented in an effort to bring about a lower incidence of training-related injuries.

Prevention Of Frequent Injuries

The first and foremost aspect of injury prevention is stretching and proper warmup. This procedure prepares the body for any strenuous demands placed upon it in the exercise regimen and increases flexibility. Preexercise stretching is directed toward the prevention of strains (muscles) and

sprains (joints), but is also helpful in the prevention of overuse injury. A basic definition of an overuse injury is one which occurs when the muscles, ligaments, tendons, or bones are unable to adapt to stresses which are imposed on them. This may occur for several reasons, such as exercising in a strenuous manner without proper warmup.

Stretching should be performed at a slow and gradual (static) pace and should be comfortable, not painful. The stretch should be held for a full 30 seconds and then relaxed. This process should be performed three times, attempting to increase the range with each stretch. Bouncing stretches cause a shortening of the muscle and should be discouraged. The areas which should be stretched include the neck, upper and lower back, shoulders, hips, thighs, groin, hamstrings, trunk, ankles, and Achilles tendon. Stretching should be performed for 15 minutes both preceding and immediately following any strenuous exercise. Additional gains in flexibility may be attained with post-exercise stretching because the muscles and joints are warmed up. This will further reduce the risk of injury.

The warmup should precede the actual workout and contain activities similar to the workout. This may include jogging a quarter-mile prior to running long distances or practicing kicks prior to performing defensive tactics. This phase prepares the body for specific activity by activating the neuro-muscular pathways.

Helpful Hints For Prevention

Before embarking on any exercise program, which includes running, there are several easy guidelines one should follow to reduce the likelihood of an overuse injury.

Running Shoes

Foremost consideration should be given to the selection of a well-designed and well-constructed running shoe. The age-old saying, "You get what you pay for," is particularly true in this case. There are a large variety of acceptable shoes by various manufacturers, usually in the $35 to $50 price range. The shoe length should be adequate to prevent the toes from contacting the front of the shoe. However, the width should be snug since the shoe will have a tendency to widen with use. The rear of the shoe should contain a proper cushion to support and protect the Achilles tendon. The shoe should have a sturdy heel, as well as a wide heel base. Finally, it should have a sufficient inside arch support, and above all, should be comfortable for the wearer.

Exercise Intensity

The use of graduated intensity is the safest method of exercise. Any exercise program should be gradual and progressive in nature. A large number of overuse problems are due to exercising "too much too soon." Common symptoms of such training errors include loss of appetite, insomnia, nausea, dizziness, moodiness, and any unusual pain in the lower extremity. A good general guideline for running is to increase mileage by 10 percent each week. Patience is certainly a virtue when it relates to beginning any exercise program.

Running Surface

A running program should begin on soft surfaces, such as grass or dirt. This allows the muscles and bones to adapt gradually to the stress involved. After approximately 1 week, the gradual inclusion of harder surfaces, such as roadways or tracks, is acceptable.

When running on a paved road, it is extremely important to spend approximately equal amounts of time on both sides of the road. Since the road is sloped for drainage, spending more time on one side may stress certain areas of the lower extremity, causing an overuse injury.

Running on hills is especially hard on the knees and should be avoided as much as possible. Avoiding uneven surfaces, roads with pot holes, or high grassy areas will help prevent knee or ankle sprains.

Treatment

If any pain of the lower extremity is experienced following exercise, ice should be applied for 20 minutes. This procedure will aid in the prevention of a chronic or long-lasting injury. If an injury does not disappear in a week, immediately contact a physician familiar with training-related injuries.

Defensive Tactics

Data gleaned from the injury analysis highlighted defensive tactics as another training activity with a high number of injuries. By the very nature of defensive tactics, injuries are commonplace. The strenuous exertion required and the numerous procedures that involve use of force and body contact establish conditions whereby the trainee is exposed to injury-producing situations. The arm area is the anatomical part receiving the most stress, and therefore, takes the brunt of the injuries. The following precautions should be employed to reduce the likelihood of injuries occurring in this area.

Warmup/Stretching

Methods for warmup and stretching have been discussed previously in this article and should be performed prior to any instruction in the defensive tactics area.

Proper Instruction

This important phase is the responsibility of the instructor. He or she should be aware of the level of proficiency of each student in the basic skills prior to progressing to the more-advanced levels. Improper techniques should be immediately recognized and corrected, since this will prevent serious time lost injuries.

Protective Equipment

Good quality protective equipment is a must for preventing injuries in defensive tactics. Protective equipment such as "head gear" and padded "kicks" should be used when participating in such activities as sparring. Broken equipment should not be used.

Safe Training Areas

Many injuries are caused by carelessness due to unsafe conditions in the defensive tactics training room. Two examples of carelessness are improperly padded poles and poor lighting. All windows should be covered with a protective shield to prevent breakage. Adequate matted space should be provided for maneuvers such as throws and take downs.

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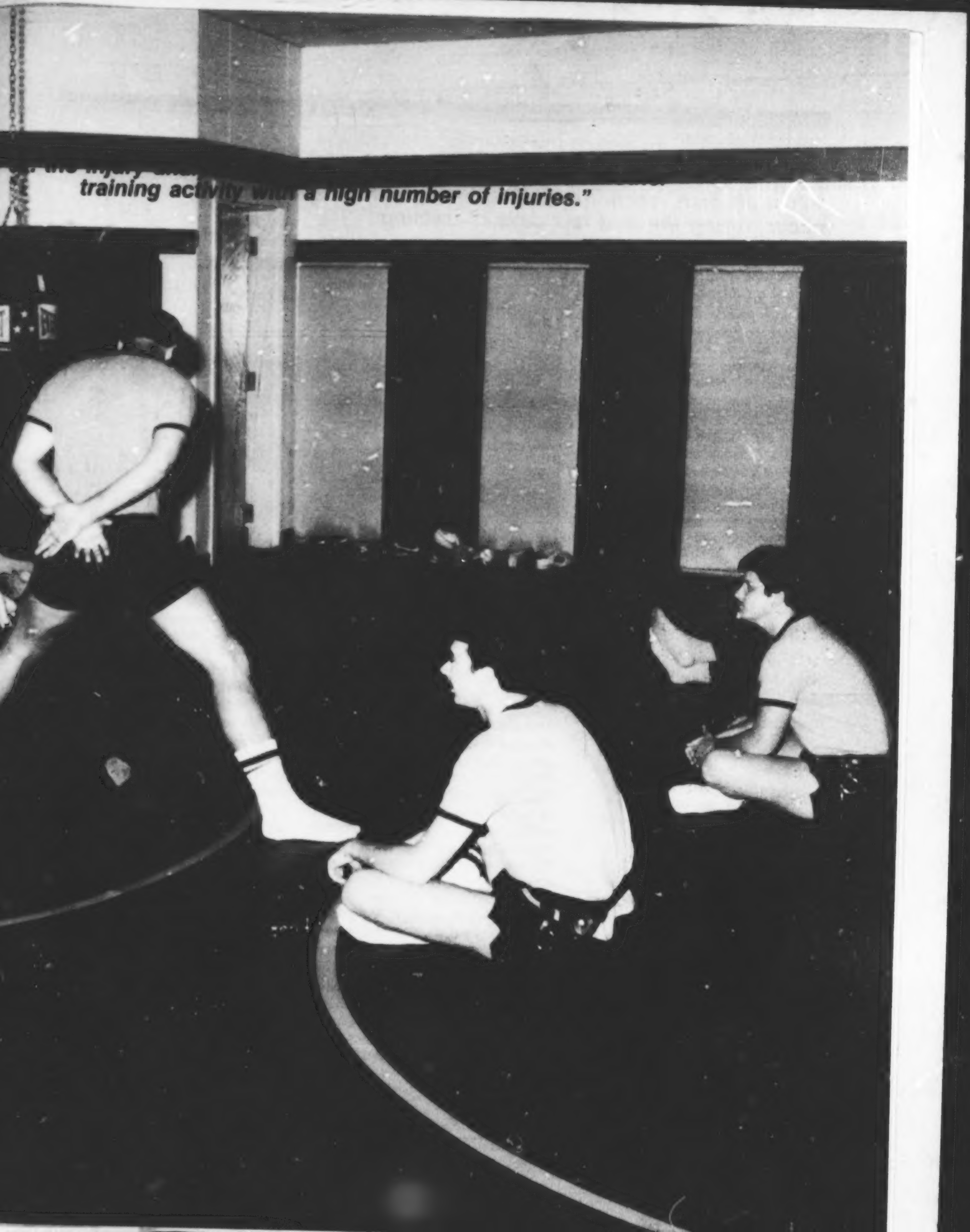
training activity with a high number of injuries."



"Most adverse reactions to environmental heat and humidity occur during the first few days of training."

Heat Illness

Excessive heat may affect the body in a variety of ways; conditions which often result are heat cramps, heat exhaustion, or heat stroke. During the conditioning process, persons who are most susceptible to heat illness are individuals unaccustomed to working in the heat, overweight individuals, ill individuals, or those with an infection, fever, or gastrointestinal disturbances.

Heat cramps due largely to loss of salt (sodium and potassium) from the body involve muscular pains and spasms. Heat exhaustion is the excessive depletion of salt and water through sweating. It usually causes fatigue, a general weakness, or total collapse. Heat stroke is a response to heat characterized by extremely high body temperature (106° of higher). It is also coupled with a complete breakdown of the sweating mechanism. The following are signs and symptoms of heat exhaustion and heat stroke:

Heat Exhaustion

- —Normal or subnormal body temperature,
- —Pale, cold, and clammy skin,
- —Profuse perspiration,
- —Fatigue and weakness,
- —Headache/perhaps cramps,
- —Nausea/dizziness, and
- —Possible fainting.

Heat Stroke

- —High body temperature (106° of higher),
- —Skin is hot, red, and dry,
- —Pulse is rapid and strong initially, then becomes irregular and weak, and
- —The victim may be unconscious.

Most adverse reactions to environmental heat and humidity occur during the first few days of training. It is necessary to acclimatize to heat to participate in activity in hot and/or humid environments. Exercise is a must for full development of physical adaptation to heat. Acclimation to heat allows an individual to work effectively in 80° heat, whereas the physically unfit can not perform in environments much above 65° to 75°. Excessive fluid loss and electrolyte depletion, including potassium, can constitute important factors in the production of heat stress complications. Water depletion heat exhaustion is an early weight loss of 2 percent which may be followed by a severe 7-percent weight loss. For this reason, a weight check is useful in the prevention of this heat disorder. Adhering to the following commonsense suggestions will help to prevent heat illness:

- —Evaluate your general physical condition.
- —Be aware of daily temperature and humidity.
- —Acclimatize to heat gradually.
- —Reduce your level of activity immediately when your body warns you that the heat is too much.
- —Replace fluids; take frequent water breaks during activity.
- —Replace salt (sodium and potassium minerals) losses.
- —Intake of fluids containing adequate amounts of electrolytes, similar to ranges found in sweat, is recommended after activity.
- —Avoid rubberized sweatsuits that will not allow body sweat to evaporate.
- —Rest between heavy activity to dissipate accumulated body heat.

Summary

Injuries can be held to a minimum with a cooperative effort of the athletic trainers, the medical officer, and physical techniques instructional personnel. As in any joint venture, good communication, along with mutual understanding and patience, is essential.

FBI

Raiding the Computer Room

Fourth Amendment Considerations

(Part I)

"Computer-related crimes present new challenges in the establishment of probable cause...."

By
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Quantico, VA

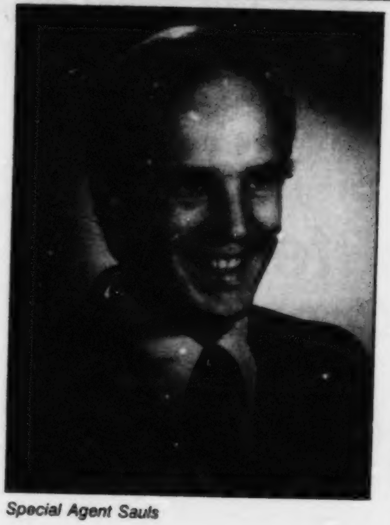
Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

For several decades, electronic computing machines have been changing the world. Businesses now record their activities by computer, law enforcement agencies maintain criminal records by computer, children are entertained by computer-driven electronic games, and authors process their words by computer. Even tasks such as medical diagnoses are being performed with the aid of computers.

In the last decade, the proliferation of low-cost "home computers" has facilitated the spread of computer power and knowledge to vast numbers of citizens. Thus, it should be no surprise that criminals have begun to use computers to commit crimes and to record the activities of their criminal enterprises. Consequently, law enforcement officers are finding it increasingly necessary to search for, examine, and seize computers and computerized records in successfully investigating and prosecuting many criminal acts.

While conducting investigations of computer-related crimes, officers must comply with an 18th century prohibition against "unreasonable searches and seizures"[1] and contend with 20th century electronic technology. For example, investigators may at times find themselves searching for intangibles rather than familiar physical evidence, such as guns or stolen stock certificates. As one court has noted, the target of a search may be "records [that] exist as electronic impulses in the storage banks of a computer."[2] This new technology creates the possibility of a criminal armed with a home computer in Wisconsin contacting a computer in New York by telephone and illegally causing funds to be transferred electronically to a bank account in France. Regardless of these technological advances, search and seizure by law enforcement officers continues to be governed by the fourth amendment to the U.S. Constitution.[3]

This two-part article will examine issues that arise when officers seek a warrant to search and seize a computer and the information it has processed. Part I will address the application of the fourth amendment warrant requirement to computer-related searches, focusing on special problems officers may encounter in establishing probable cause to search and particularly describing the computer equipment to be seized. Part II will address the description of computer-processed information to satisfy the particularity requirement and then consider issues that may arise in the execution of a warrant authorizing the seizure of a computer and computer-processed information.



Special Agent Sauls

WARRANT REQUIREMENT

The fourth amendment protects the right of the people to be "secure in their persons, houses, papers and effects" against unreasonable Government intrusion.[4] This protection extends to computers, which are effects, and to information processed by this electronic technology, which can be categorized as papers. The constitutional demand upon the officer seeking to seize a person's computer or computerized information is that the seizure be reasonable.[5] The U.S. Supreme Court, in establishing guidelines for reasonable searches and seizures, has stated a preference that they be made pursuant to a judicially issued search warrant. The "Constitution requires that the deliberate, impartial judgment of a judicial officer be interposed between the citizen and the police . . . searches conducted outside the judicial process, without prior approval by judge or magistrate, are per se unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions."[6] This requirement that a warrant be obtained prior to a search or seizure is applied with special strictness where business or residential premises, the places computers are most likely to be located, must be entered to perform the search.[7]

The fourth amendment sets forth certain procedural requirements that must be met if a valid warrant is to be issued. There must be a showing of probable cause supported by oath or affirmation, and the warrant must particularly describe the place to be searched and the persons or things to be seized.[8] In addition, the Supreme Court has held that the probable cause determination must be made by a neutral, detached magistrate.[9] The requirements of oath or affirmation and of presentation to a neutral, detached magistrate raise no special problems where computer searches are concerned; however, the probable cause and particularity requirements pose unique problems where computers are the search target, and these issues merit discussion.

Probable Cause To Search

Central to the protections provided to citizens by the warrant requirement is the command that no warrants shall issue but upon probable cause.[10] This language has been interpreted to require that before a search warrant may be issued, the Government must set forth facts that would cause a reasonable person to conclude that it is probably true that (1) a crime has been committed, (2) that evidence of that crime is in existence, and (3) that the evidence presently exists at the place to be searched.[11] Obviously, satisfying this requirement necessitates the collection and presentation of information, and law enforcement officers perform this task daily in regard to numerous crimes. Computer-related crimes present new challenges in the establishment of probable cause though, because of the unfamiliar technology involved. Although a magistrate likely already understands how a murder may be committed with a gun, he may require considerable explanation before finding that an embezzlement was committed by means of a computer. The problem is largely an educational one.

Inasmuch as computers may be used in a wide variety of criminal endeavors, ranging from fraud to espio-

"... an officer seeking to convince a magistrate that a novel crime has been committed should use care to ensure that the explanation of the mechanics of the crime is clear and easily understood."

nage, it is difficult to state concisely what is required to satisfy the probable cause requirement in a computer-related crime. In general, probable cause will be established just as it would in a case where no computer was involved, except that additional facts will have to be presented regarding the role of the computer in the criminal activity.

That a Crime Has Been Committed

The first hurdle in establishing probable cause to search is articulating facts to indicate that a crime probably has been committed. In determining what additional facts a magistrate will need to make such a finding where a computer is involved in the crime, it is helpful to examine the role played by the computer in the criminal activity. For example, where a computer is stolen, the crime is the same as any other theft, and the required factual showing, describing the computer as the object of the crime, would likewise be the same. Where a computer is used as a tool to commit a crime, facts must be presented to show the crime was committed and to explain how the computer was used in the commission. Because computer systems are commonly installed so they may be used from distant locations by means of electronic communication over telephone lines, novel criminal opportunities have been created.[12] Valuable data may be transferred from one computer to another or modified to achieve advantage for the computer criminal.[13] Inasmuch as the means used to commit these crimes are unfamiliar, the officer must convince the magistrate that such a crime has been committed by detailing how it was committed.

An example of an officer successfully obtaining a search warrant in a case where new technology was being employed to commit the crime of fraud is found in the case of *Ottensmeyer* v. *Chesapeake & Potomac Telephone Co.*[14] Ottensmeyer, who ran a telephone answering service, decided to provide an alternative to his customers to normal, commercial long-distance telephone service. He found a strategically located town that enjoyed nontoll calling service to a larger city on either side, despite the fact that a call from one of the larger cities to the other was a toll call. Ottensmeyer installed an electronic device in the small town that allowed a customer in one of the large cities to "patch" a call to the other large city through the device, thereby avoiding a toll call and defrauding the phone company of revenues to which it was entitled.

The investigator, a police officer who had special training in electronic technology and telecommunications, sought a warrant to search the premises where the "patching" device was located. In his affidavit, the officer "informed the judge of his experience in the electronic field and of his independent investigation and conclusions."[15] The officer articulated facts that explained how the scheme to defraud functioned, and drawing on his expertise, cited inferences he had drawn from the facts he had observed. The warrant was issued and the search performed.[16]

Obviously, an officer seeking to convince a magistrate that a novel crime has been committed should use care to ensure that the explanation of the mechanics of the crime is clear and easily understood. If the officer wishes the magistrate to consider the officer's interpretations of the facts he has observed, he must inform the magistrate in his affidavit of the experience and training that accredit these interpretations. Consideration of such inferences by a magistrate determining probable cause has been approved so long as the officer sets forth the training and experience upon which they are based.[17]

An officer seeking to establish probable cause where the crime is unusual or unfamiliar may also elect to use the services of an expert. An example of using information provided by experts in affidavits for search warrants is found in *United States* v. *Steerwell Leisure Corp., Inc.*[18] Steerwell was charged with infringing upon the copyrights of a number of electronic video games, and the question of whether a crime had been committed turned on whether the games Steerwell was distributing were sufficiently similar to the copyrighted games to violate the copyright statute. The affidavits to support search warrants presented the magistrate with results of expert analysis in comparing the games distributed by the defendants with the copyright-protected games. In determining the validity of the warrants issued on those affidavits, the court concluded that the magistrate was entitled to accept the conclusions of the experts, but noted the "magistrate's determination of probable cause would be facilitated if the agents' affidavits contained more details concerning the comparisons between protected games and infringing games."[19]

"The primary rule of particularity should be to make the description of the items to be seized as precise as the facts will allow."

The court also made reference to the importance of explaining to the magistrate how the crime was committed, in this case by duplication of the circuit boards that control the action of electronic games.[20] Again, the task of the officer includes providing sufficient technical details in layman's terms to familiarize the magistrate with the mechanics of an unusual crime.

That Evidence of the Crime Exists

The second hurdle for an officer seeking to establish probable cause to search is setting forth facts to convince a magistrate of the probability that evidence of the crime exists. Where a computer is stolen, the stolen computer is evidence of the crime. If the theft is established factually, then the existence of the computer as evidence is likewise established. Similarly, where facts establish that a computer was used to commit a crime, the same facts establish that the computer used was an instrumentality of the crime. This was demonstrated in the *Steerwell Leisure Corp.* case where if the magistrate found that the circuit boards in question violated the copyright laws then the boards would also constitute evidence of that violation.[21]

Where an investigator seeks to establish that computerized records of criminal activity are in existence, his task is essentially the same as establishing the existence of noncomputerized records. He must factually establish that records of the criminal activity have probably been created and retained. There is authority for the position that it is unnecessary to establish factually in the affidavit the physical form in which the records sought are expected to be found.[22] If the officer can establish factually the creation and retention of the records, he need not specify (or know) whether they are being maintained in written, magnetic, or some other form. In *United States* v. *Truglio*, audio cassettes were seized during the execution of a search warrant authorizing the seizure of "... books, records, indices, movies regarding the interstate prostitution operation located at the King of the Road Health Club...."[23] In approving seizure of the audio cassettes, the court noted that "it would have been more precise for the warrant to have specified 'written or electronic records,' " but then stated that "[s]tandards of pragmatism and commonsense must necessarily be adaptable to changing times and technological advances."[24] The court concluded by saying that "[w]hile decades ago it might have been difficult reasonably to infer that records existed in some form other than written, in the mid-1980's commonsense demands that we refrain from remaining so inflexible."[25]

That Evidence of the Crime Presently Exists at the Place to be Searched

Finally, the investigator seeking to establish probable cause to search must factually establish the probability that the evidence sought is presently located at the place he is seeking authorization to search. Whether this requirement of recent information has been met is "... determined by the circumstances of each case."[26] As stated by the U.S. Supreme Court, "[t]he task of the issuing magistrate is simply to make a practical, commonsense decision whether, given all the circumstances set forth in the affidavit before him ... there is a fair probability that ... evidence of a crime will be found in a particular place."[27]

The requirement for recent information is easily satisfied where the investigator can set forth reliable information that the object sought has been recently observed at the proposed search site. Where such facts are not available, other facts must be used to infer that the items to be seized are presently at the place to be searched. At times, having a computer or its records as the target of the search may simplify meeting this requirement. If a computer has been used to commit a crime telephonically, it is possible that it has also been set up to "answer" incoming calls, to allow other computer operators to call it using their computer terminals and a telephone. If such an operation exists, an incoming call will be answered with a tone called a "carrier."[28] When a particular phone is answered with a "carrier," it seems reasonable for a magistrate who has been informed of the significance of the "carrier" to find that a computer and related equipment are probably present at the location of the telephone.

A somewhat analogous case involved a search warrant issued for the seizure of a "blue box," an electronic device used to create tones on the telephone system to facilitate the making of long-distance calls without being billed for the toll charges.[29] In this case, tones such as those produced by a "blue box" had been monitored by the telephone company on a particular telephone for a period of weeks, ending the day prior to the issuance of the warrant. This information was related to the magistrate in the affidavit. In upholding the validity of the resulting search warrant, the court concluded that "[t]he affidavit set forth substantial information establishing clear probable cause to believe that a device emitting a 2600 cycle tone and Southwestern Bell multifrequency tones was being utilized ... at [the] residence."[30]

Where computerized records are sought, the magistrate should consider that records by their nature are created to be kept for at least a minimum period of time, along with the other facts presented, in determining whether the records are presently at the place to be searched.[31] Although each case must be evaluated on its own facts, the U.S. Supreme Court and lower courts have held that under certain circumstances, it is reasonable to expect that records seen 3 months previously will still be present at that same location.[32]

Particularity

The fourth amendment commands that "no warrants shall issue except [those] ... particularly describing the place to be searched and the persons or things to be seized."[33] This provision requires that a warrant authorize only a search of a specific place for specific named items. Coupled with the probable cause requirement, this provision prevents general searches by ensuring that the warrant describes a discrete, defined place to be searched, describes only items connected with criminal activity for which probable cause has been established, and describes the items so definitely that it removes from an officer executing the warrant the discretion of determining which items are covered by the warrant and which are not.[34] It also provides a signal of when a search is at an end, that is, when all items named in the warrant have been located and seized or when all possible hiding places for items not located have been explored.[35] Since the "place to be searched" portion of the particularity requirement has no special impact on computer searches, it will not be discussed. However, the "things to be seized" portion of the requirement has a marked impact in seeking a warrant to authorize the seizure of a computer or information processed by a computer. This portion will be examined in regard to both the computer and the processed information.

Describing the Computer

The primary rule of particularity should be to make the description of the items to be seized as precise as the facts will allow. A court measuring the particularity of a description in a search warrant may consider what facts could reasonably be known by the investigator at the time application for the warrant was made, so long as the investigator includes all the facts known to him in the affidavit.[36] Consequently, the circumstances of each case can help determine whether a description is sufficiently particular. The nature of the item sought also is considered in determining the degree of particularity required. A less precise description is required of items which are contraband, such as controlled substances.[37] Conversely, greater particularity is demanded when the item sought is of a type in lawful use in substantial quantities.[38] Generally, where computer equipment is sought for seizure pursuant to a search warrant, a quite particular description will be required.

Where a computer has been reported stolen, it is reasonable to expect that the owner will provide a detailed description of the stolen item. Therefore, if the object of the search is a stolen computer, a detailed description, including manufacturer, model number, and serial number if known, will probably be required. This is especially true if the computer sought is a type commonly in lawful use. Care should be taken to ensure all available descriptive information is included.

Where computer equipment is sought because it was used as an instrumentality to commit a crime, the most precise description the facts will allow may be a more general one.[39] Where a victim complains that his computer system has been accessed telephonically by an unknown person and a loss has resulted, it is likely that the investigator will only be able to determine generally what types of devices were used to accomplish the crime. He may, for example, learn that a computer terminal (a keyboard and display monitor) and a modem (a device that allows digitally encoded computer information to be transmitted over telephone lines) were necessary to perform the acts accomplished, but will have no information regarding the manufacturers of the equipment, model numbers, or serial numbers. If a telephone trace reveals the location from which the intruding call originated, the investigator may have probable cause to search. Under these circumstances, the general description of "a computer terminal and a modem of unknown make or model" may suffice.

An analogous case is *State* v. *Van Wert*,[40] where police had probable cause to believe Van Wert was using equipment to forge checks. A search warrant was issued authorizing the seizure of "check protectors and typewriters used in preparation of forged checks." The court approved use of this general language based upon the nature and information known con-

"Where a computer is used as a tool to commit a crime, facts must be presented to show the crime was committed and to explain how the computer was used in the commission."

cerning the crime, stating that greater particularity "... was not needed in this case where defendant was under investigation for forgery rather than theft of a certain item."[41]

Similarly, the warrant in *United States* v. *Harvey* authorized the seizure of "a 'blue box,' an electronic device that allows a caller to make long distance calls without them being recorded for billing by the telephone company."[42] The Agents executing this warrant ultimately seized audio cassette tapes that had tones such as those produced by a "blue box" recorded on them. The court noted that the affidavit clearly established that a device emitting "blue box" type tones was being used at the place to be searched and then addressed the particularity question, observing that "[n]either the Southwestern Bell officials nor the FBI Agents knew the actual physical form which the device would take, and they assumed it would be in the form familiar to their research and experience...."[43] The court, in approving the seizure, said, "[t]he cassette tapes constituted 'an electronic device that allows a caller to make long distance phone calls without them being recorded for billing by the telephone company' and were thus properly seized as within the limitations of the warrant."[44]

Since computer systems are often comprised of a number of component parts,[45] an investigator applying for a warrant to seize a computer should ensure that the warrant describes all parts of the computer system that are probably present, as well as the various types of storage devices upon which the machine's operating instructions (computer programs) are maintained. It is prudent to consult an expert concerning the items to be listed. Equipment components will probably include a central processing unit, printers, terminals (keyboards and display screens), magnetic tape drives, and magnetic disc drives. Storage media will include magnetic tapes, magnetic discs, punched cards, and paper tapes. Computer printouts will also likely be present.[46] If information that has been processed is being sought, it is especially important to particularly describe the storage media. Consultation with an expert will increase the likelihood of a thorough listing of the items of evidence probably present, and provided the expert's education and experience are set forth in the affidavit, will give the magistrate a sound basis for concluding that the items sought are probably located at the place to be searched.

Part II of this article will conclude the particularity analysis and discuss problems with executing this type of search warrant.

Footnotes

[1] U.S. Const. amend. IV.

[2] *United States* v. *Hall*, 583 F.Supp. 717, 718 (E.D. Va. 1984).

[3] *See Katz* v. *United States*, 389 U.S. 347 (1967).

[4] U.S. Const. amend. IV.

[5] *See Katz* v. *United States*, 389 U.S. 347 (1967).

[6] *Id.* at 357.

[7] *See Michigan* v. *Tyler*, 436 U.S. 499 (1978).

[8] U.S. Const. amend. IV.

[9] *Coolidge* v. *New Hampshire*, 403 U.S. 443 (1971).

[10] U.S. Const. amend. IV.

[11] *Zurcher* v. *Stanford Daily*, 436 U.S. 547, 556–557 n. 6 (1978), quoting Comment, 28 U. Chi. L. Rev. 664, 687 (1961).

[12] For a discussion of computer telecommunication crime, see Marbach, "Beware: Hackers at Play," *Newsweek*, September 5, 1983, p. 42.

[13] For an interesting discussion of computer crimes, see T. Whiteside, *Computer Capers* (Thomas Y. Crowell Co., 1978).

[14] 756 F.2d 986 (4th Cir. 1985).

[15] *Id.* at 990.

[16] *Id.* at 990, 991.

[17] *See, e.g., United States* v. *Ortiz*, 422 U.S. 891 (1975). *See also Johnson* v. *United States*, 333 U.S. 10 (1948).

[18] 598 F.Supp. 171 (W.D.N.Y. 1984).

[19] *Id.* at 176.

[20] *Id.* at 177.

[21] *Id.*

[22] *United States* v. *Truglio*, 731 F.2d 1123 (4th Cir. 1984), *cert. denied*, 83 L. Ed.2d. 130 (1984).

[23] *Id.* at 1126.

[24] *Id.* at 1128.

[25] *Id.*

[26] *Sgro* v. *United States*, 287 U.S. 206 (1932).

[27] *Illinois* v. *Gates*, 462 U.S. 213, 238 (1983).

[28] *See* Fitzgerald and Eason, *Fundamentals of Data Communication*, pp. 42–43 (John Wiley & Sons, 1978).

[29] *United States* v. *Harvey*, 540 F.2d 1345 (8th Cir. 1976).

[30] *Id.* at 1354.

[31] *United States* v. *McManus*, 719 F.2d 1395 (6th Cir. 1983).

[32] *Andresen v. Maryland*, 427 U.S. 463, 478 n. 9 (1976).

[33] U.S. Const. amend. IV.

[34] *See Marron* v. *United States*, 275 U.S. 192 (1927). For a thorough discussion, see 2 W. LaFave, *Search and Seizure* 95–101 (1978).

[35] *See* 2 W. LaFave, *Search and Seizure* 162 (1978).

[36] *Cf. Andresen* v. *Maryland*, 427 U.S. 463 (1976).

[37] *See, e.g., Steele* v. *United States*, 267 U.S. 498 (1925).

[38] *Supra* note 35, at 99.

[39] *Id.* at 104. *See, e.g., Quigg* v. *Estelle*, 492 F.2d 343 (9th Cir. 1974).

[40] 199 N.W.2d 514 (Minn. 1972).

[41] *Id.* at 515–516.

[42] *Supra* note 29, at 1353.

[43] *Id.* at 1354.

[44] *Id.*

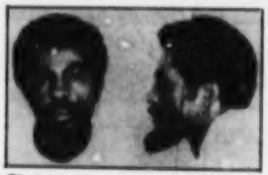
[45] For a discussion of computer system components, see T. Schabeck, *Computer Crime Investigation Manual*, secs. 2.3–2.6 (Assets protection, 1980).

[46] An example of a detailed description of a computer system is: "One Alpha [Brand] Micro computer central processing unit, approximately four Alpha [Brand] Micro computer terminals, computer printers, and computer manuals, logs, printout files, operating instructions, including coded and handwritten notations, and computer storage materials, including magnetic tapes, magnetic discs, floppy discs, programs, and computer source documentation." Quoted from *Voss* v. *Bergsgaard*, 774 F.2d 402, 407 (1985) (warrant invalidated on other grounds).

WANTED BY THE FBI

Any person having information which might assist in locating these fugitives is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Because of the time factor in printing the FBI Law Enforcement Bulletin, there is the possibility that these fugitives have already been apprehended. The nearest office of the FBI will have current information on these fugitives' status.


Photographs taken 1971

Albert Louis Bradford,

also known as Malik El Assaalam, Albert Louis Bardford, Louis Cable, Malik Hakim, Malik El Saalam, "Al." N; born 12-11-33, St. Louis, MO; 5' 11"– 6'0"; 170–185 lbs; med bld; blk hair; drk brn eyes; drk comp; occ-artist, musician, porter, teacher; scars and marks: scars on back of right hand; tattoos: insect, teepee, "DEX," "BERNICE," "KENO" on left arm. Wanted by FBI for INTERSTATE FLIGHT—FORCIBLE RAPE.

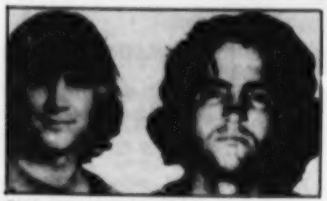
Fingerprint Classification:
17 L 25 W IOO
M 14 U OOI 12

I.O. 4522
Social Security
Number Used: 500-58-7177
FBI No. 683 609 A

Right little fingerprint

Caution

Bradford, who reportedly attempted suicide in the past, is being sought for rape during which the victim was viciously beaten with a hammer and sharp instrument. Consider armed and very dangerous.

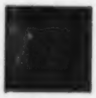

Photographs taken 1974

Stephen Allen Maser,

also known as "Sam," "Steve." W; born 7-20-49, Raleigh, NC; 5' 10"; 165–175 lbs; med bld; sdy bld hair; bl eyes; med comp; occ-automobile salesman, operator boutique store; scars and marks: surgical scar across abdomen from side to side. Wanted by FBI for BANK ROBBERY; ESCAPED FEDERAL PRISONER.

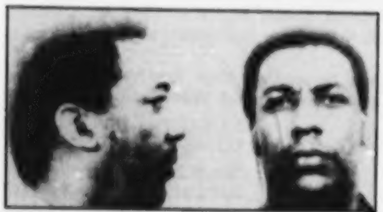
NCIC Classification:
210506141117COO71212
Fingerprint Classification:
21 M 1 U IIO 11
L 3 W OII

I.O. 4669
Social Security
Numbers Used: 246-78-8485; 267-82-4929
FBI No. 990 344 G


Left index fingerprint

Caution

Maser, who is being sought for escape, shot at bank manager and police during commission of a bank robbery. Consider armed, dangerous, and an escape risk.


Photographs taken 1970

Stephen Correlus Parker,

also known as Nathaniel Butler, John Collins, Steve Parker, Steven Parker, "Bitsy," "Damel." N; born 4-5-44; Indianapolis, IN; 6' 1"-6' 2"; 180–195 lbs; med bld; blk hair; brn eyes; med comp; occ-youth counselor, home repairs; remarks: enjoys jogging, somewhat reserved. Wanted by FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:
PO1517PO21DI17142016
Fingerprint Classification:
15 O 13 U OOO 21
L 17 U OOO

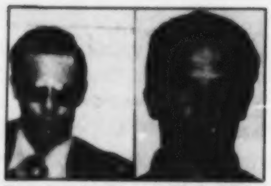
I.O. 4650
Social Security Number Used: 288-38-0582
FBI No. 321 502 G

Left thumbprint

Caution

Parker is being sought as an escapee from the Tennessee State Prison where he was serving a lengthy sentence for the shooting murders of two law enforcement officers. He may be accompanied by Charles Lee Herron, TEN MOST WANTED FUGITIVE, FBI Identification Order 4163, William Garrin Allen II, FBI Identification Order 4640, and Ralph Canady, FBI Identification Order 4644. Consider armed, extremely dangerous, and an escape risk.

WANTED BY THE FBI



Photographs taken 1973 & 1974

Left thumbprint

Wayne J. Rux,

also known as Ray Bowman, Jerry L. Emery, Chuck Harper, Mark Huddleston, Jerry Matthews, Ray Rux, Wayne Lee Rux, Robert Glenn Solberg, and Jerry E. Wells. W; born 11–16–37, San Francisco, CA; 6′2″; 175–180 lbs; sldr bld; brn hair; brn eyes; med-freckled comp; occ-gambler, laborer; tattoos: "W.R." left forearm, "Wayne" right forearm; remarks: reportedly travels with wife, who may also be armed, and a Yorkshire terrier; has great fondness for sailboating and yachting. Wanted by FBI for BANK ROBBERY.

NCIC Classification:
DM16161716PI13161416

Fingerprint Classification:
16 M 5 U OOO 16
I 17 U OOO

I.O. 4652
Social Security Numbers Used: 465-52-8574; 531-50-6264
FBI No. 774 325 B

Caution

Rux reportedly carried a handgun in bank robbery for which he is sought. Allegedly has a briefcase full of handguns. Consider very dangerous.

Photographs taken 1969

Freddie Scott,

also known as F. Scott, "Four," "Lil Four," "Little Four." N; born 2–3–33, New Orelans, LA; 5′ 11″; 155 lbs; sldr bld; blk hair; brn eyes; drk comp; occ-baker, barber, longshoreman; scars and marks: mole under right eye, scars on left side of cheek, upper lip and left wrist, right index finger crooked and tip crushed; remarks: may wear thin-line mustache, reportedly disguises self by dressing as a woman. Wanted by FBI for INTERSTATE FLIGHT—ARMED ROBBERY; ESCAPED FEDERAL PRISONER.

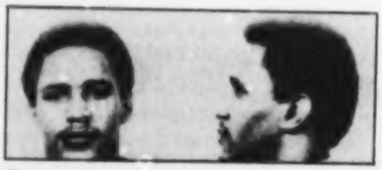
Fingerprint Classification:
8 S 5 U OOI 15
0 2 U OII

I.O. 4621
Social Security Numbers Used: 438-04-9584; 438-40-9585
FBI No. 503 433 B

Right thumbprint

Caution

Scott escaped from the Orleans Parish Prison, New Orleans, LA, where he was serving concurrent Federal and State sentences after conviction for bank robbery. He previously had exchanged gunfire with police officers during the commission of an armed robbery for which he was convicted. He reportedly carries a .357 magnum pistol in the waistband of his trousers. He should be considered armed and very dangerous.



Photographs taken 1970

Right middle fingerprint

William Garrin Allen II,

also known as Bill Adams, Bill Allen, William Garbin Allen, William Garren Allen II, William Garvin Allen III, William L. Huff, Robert L. Huff, Robert L. Williams, Louis Williams, Robert Lewis Williams, "Bitsy," and others. N; born 9–18–45, Nashville, TN; 6′ 1″–6′ 2″; 175–184 lbs; med bld; blk hair; brn eyes; lt brn comp; occ-laboratory technician, shoe salesman, youth counselor, home repairs;
scars and marks: scar on left hand; remarks: may be wearing short Afro hairstyle, mustache, small goatee and sideburns, reportedly is left handed. Wanted by FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:
0604081006045405 1105

Fingerprint Classification:
6 S 1 U III 6 Ref: T
S 1 R III R

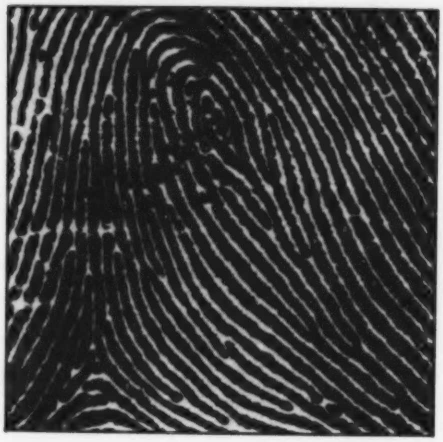
I.O. 4640
Social Security Number Used: 412-70-3333
FBI NO. 200 035 G

Caution

Allen is being sought as an escapee from the Tennessee State Prison where he was serving a lengthy sentence for the shooting murders of two law enforcement officers. He may be accompanied by Charles Lee Herron, TEN MOST WANTED FUGITIVE, FBI Identification Order 4163, Ralph Canady, FBI Identification Order 4644, and Stephen Correlus Parker, FBI Identification Order 4650. Consider armed, extremely dangerous, and an escape risk.

Questionable Pattern

This pattern, at first glance, appears to be a central pocket loop-type whorl. A closer inspection, however, reveals the lack of a recurve in front of the inner delta. This pattern is classified as a loop with 13 ridge counts. However, a reference search would be conducted as a central pocket loop-type whorl with an outer tracing.



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The Bulletin Notes

Officer Raymond LaRue of the Wheeling, WV, Police Department was on patrol in June 1985, when an employee of a local department store summoned Officer LaRue, as a baby had stopped breathing in the store. Officer LaRue administered mouth-to-mouth resuscitation until the child was breathing again. This officer's chief noted that CPR courses are a part of the department's training program, and the Bulletin joins the chief in commending Officer LaRue's lifesaving action.

Officer LaRue

55/6

FBI
Law Enforcement Bulletin

June 1986

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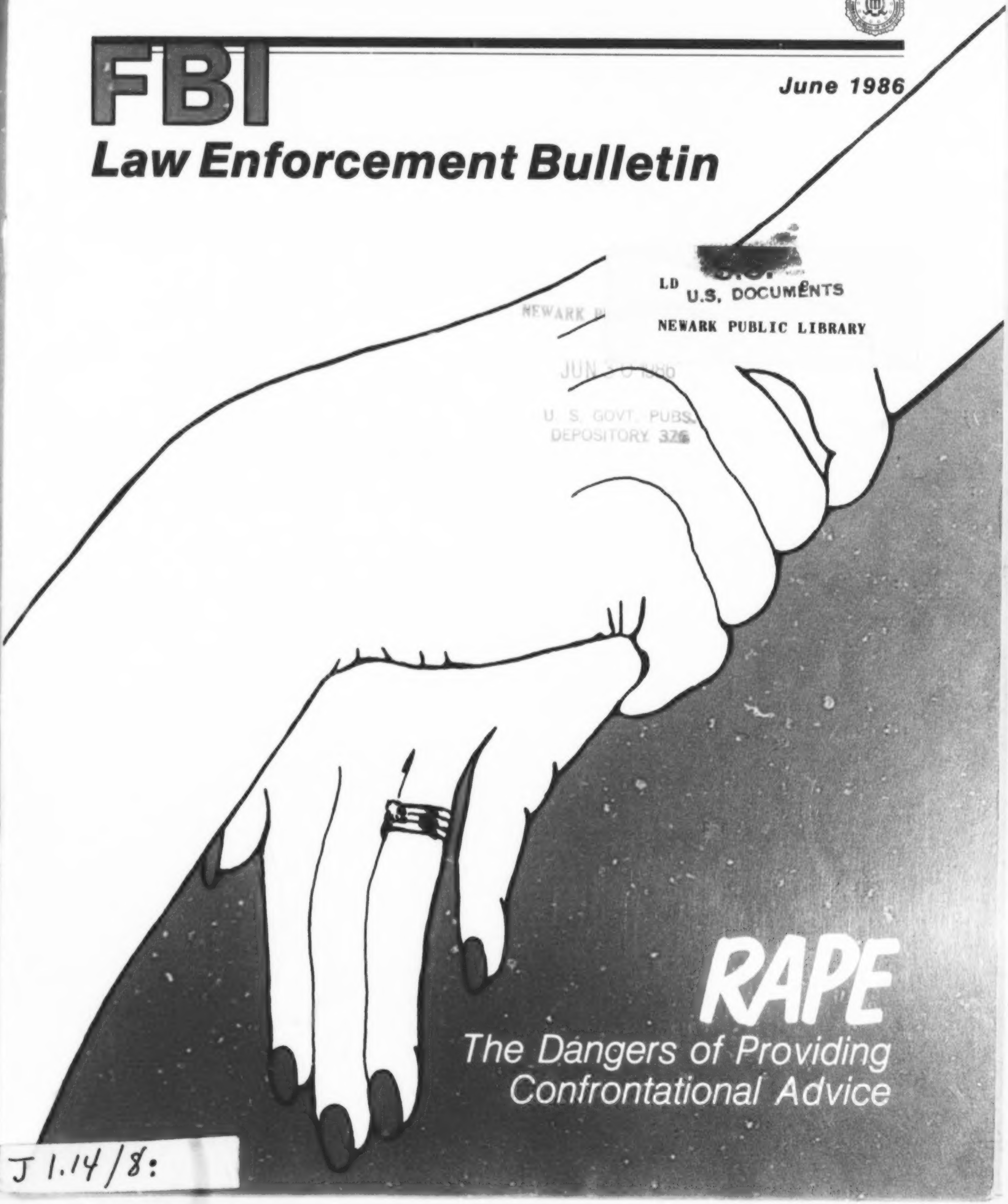

RAPE
The Dangers of Providing Confrontational Advice

J 1.14/8:

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RAPE: The Dangers of Providing Confrontational Advice

"'Different motives operate in different offenders and, therefore, what might be successful in dissuading one type of assailant might, in fact, only aggravate the situation with a different type of offender.'"

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Recently, while addressing an audience on the topic of rape, one of the authors was asked what advice he would offer to a woman confronted with a rape situation. All too familiar with this question, he replied that he could recommend a course of action only if the person asking the question would describe to him: first, the location of the confrontation; second, the personality of the hypothetical victim; and third, the type and motivation of the particular rapist.[1]

This conditional response certainly disappointed the members of the audience, for they wanted an all-purpose answer that could be easily remembered and serve all situations. Unfortunately, our research and experience indicate strongly that no one piece of advice will prove valid in all or even a majority of sexual assault situations.

As faculty members of the Behavioral Science Unit (BSU) at the FBI Academy, we are experienced in the study of sexual violence and have worked with investigators from law enforcement communities throughout the Nation on over 1,000 rape cases. We have had the rare opportunity of personally interviewing serial rapists, and we have worked closely with professionals widely recognized for their research in, and their investigative and academic contributions to, the study of sexual violence—Dr. Ann Wolbert Burgess, University of Pennsylvania, who pioneered the identification of Rape Trauma Syndrome; Dr. Fred Berlin, Johns Hopkins Medical Center, who has led the field in treating sexual offenders with Depo-Provera; Dr. Park Elliott Dietz, University of Virginia, a recognized expert in forensic psychiatry; and Dr. A. Nicholas Groth, former director of the sex offenders' treatment program in Somers, CT, among others.

Our research and experiences indicate that there is no one specific way to deal with a rape situation. Groth and Birnbaum speak for the rapists themselves when they say, "Different motives operate in different offenders and, therefore, what might be successful in dissuading one type of assailant might, in fact, only aggravate the situation with a different type of offender."[2] Consequently, we wish to first highlight the dangers of giving confrontational advice. To do so, we will report the highly conflicting advice offered by professed experts in the field and by convicted rapists, and we will analyze specific cases that demonstrate the predictability of sexual assault behavior. Second, we wish to discuss the three parameters of the sexual assault situation that might assist the potential victim in determining a reasonable course of action: 1) the confrontation environment, 2) the personality of the

Special Agent Hazelwood

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victim, and 3) the type and motivation of the rapist. We understand that reason is necessarily clouded in unexpected confrontational situations, but we believe that consideration of these factors will yield better results for the victim than if she trusts one arbitrary response that might work or that might goad the assailant to further violence.

Advice from the Rapists

Occasionally, one reads an article or observes a television program in which an individual interviews one or more rapists about what a potential victim should do when confronted with a rape situation. Such a representation has great impact on its audience because the advisors are *real* rapists! Who should know better than the offender what will deter his attack? To believe the advice, however, the audience must assume that all rapists are behaviorally like the one presented to it.

As part of an ongoing research project, members of the BSU ask this same question of many rapists, men who have raped 10 or more victims, and they have elicited widely divergent answers as to what would have successfully deterred each one. Some say, "Tell them to scream, fight, claw like hell." Some, "Tell them to give in because the guy is going to rape her regardless of what he has to do." Some, "Tell her to pretend that she wants him so he will finish and leave." And others, "Tell her to bribe him with money." Which rapist should the potential victim listen to? The individual who presents rapists (and their advice) to an audience has an obligation to explain that the information provided is relevant only to the rapist providing it and should not be generalized to all rape situations.

Experts in the Field

Over the years, programs and techniques have mushroomed that profess to provide potential victims with the key to deterring the rapist. These programs and techniques have grown out of a variety of professions, including law enforcement, criminology, sociology, mental health, and crisis intervention. They usually advocate one or some combination of the following methods of resistance:

—*Physical Resistance:* Training the individual in self-defense tactics, including knowledge of various pressure points that are sensitive to attack.

—*Verbal Resistance:* Sensitizing potential victims to the effects of their tone of voice, manner, and attitude, and training them to scream, negotiate, or assertively respond to the attacker's demands.

—*Noisemaking Devices:* Acquainting and equipping individuals with whistles, miniature sirens, or other such devices.

—*Use of Chemicals:* Providing individuals with containers of disabling gases, such as Mace, or with repugnant odor devices.

—*Use of Weapons:* Training individuals in the use of guns, keys, clubs, or stickpins in the hostile situation.

—*Pretext of Pregnancy or Venereal Disease:* Advising individuals to claim pregnancy or disease to the attacker in hopes that it will appeal to his sense of humanity or to his fears.

—*Vomiting, Urinating, Defecating:* Advising the individual to repel the attacker by performing disgusting physical actions.

"Victims must tailor their type of resistance to the environment in which the attack is occurring."

All of these techniques certainly have their place and can be highly effective in a particular situation. But they could also be worthless or even dangerous in particular situations.

Case Studies

We are certain that individuals who advocate the various methods of resistance presented above formulated them because they were employed successfully in one or more situations and present them as viable techniques with the very best of intentions. However, we are also certain that to generalize the success of one or more instances to all rape situations is not only potentially dangerous to the victim but is also irresponsible and unprofessional. The following four cases serve to illustrate the futility of providing potential victims with just one technique to deal with all rapists.

CASE NO. 1

One summer evening, a 20-year-old female was walking home after attending a movie when she noticed a car with four males inside following her. She became nervous and walked to a pay phone to call her parents. As she was explaining her fears, two of the males pulled her from the phone booth and forcibly placed her in the backseat of their car. She involuntarily defecated and urinated out of fear. This so enraged her captors that they began pummeling her and forced her to consume her own waste material. Following this, the four took turns assaulting her sexually. Finally, they tied her to the rear bumper of the car and dragged her behind the automobile before releasing her. As a result, she suffered numerous fractures and required extensive medical treatment and mental health care.

CASE NO. 2

The rapist, a white male in his late twenties or early thirties, entered the residence of a family of four. The husband and wife were out for the evening and had hired a 13-year-old girl to babysit. Brandishing a handgun, he subdued the babysitter and her young charges and forced the young girl to perform fellatio and to masturbate him. When the parents arrived home, he handcuffed the husband, forced the wife to disrobe, bound her hands behind her back, and vaginally assaulted her in the husband's presence. Up to this point, the rapist had not struck or physically harmed anyone in the home and had been emotionally calm. As the rape was occurring, the husband asked his wife if she was all right, and the wife replied, "Yes, he's being a gentleman." At this point, the rapist's attitude changed dramatically. He so brutally attacked the victim's chest with his hands that she later had to undergo a radical mastectomy of both breasts. He was later asked why he had reacted so violently to such an innocuous statement. He answered, "Who was she to tell me that I was being a gentleman? I wanted to show her who was in charge, and she found out."

CASE NO. 3

A serial murderer sexually assaulted and killed 17 women over a number of years. He had also raped and released several women during that same period. One of the released victims reported the assault to the local police department. Because she was a prostitute, little attention was given to her complaint. Two years later, a State police agency located and interviewed the victim, and subsequently, the offender was identified, arrested, and convicted. He made a full confession, startling his interrogators when answering questions about why he did not kill all his victims. He told them that before he would kill a victim, three criteria had to be met. First, the victim must have approached him sexually (he frequented areas known for prostitutes). Second, the victim must exhibit some reluctance in performing various sexual acts, and third, the victim must make some attempt to escape. The prostitute victim mentioned earlier had met the first two criteria for death, but had made no attempt to escape even though the offender had tried to give her his weapon (unloaded). The victim had declined the weapon and stated that she didn't want to shoot anybody, she just wanted to go home.

CASE NO. 4

A 39-year-old white male sexually mistreated his wife over a number of years, even binding her and assaulting her with a hair brush. Additionally, he had raped several women and molested his two daughters, two nieces, and the daughter of a female acquaintance. During an interview about one of the rapes, he was asked what his reaction would have been had the victim resisted him either physically or verbally. He thought for several moments and replied, "I don't know, I might have left, but then again, I might have killed her. I just don't know."

These four case illustrations demonstrate dramatically that any one program on confrontational techniques would not have helped all the victims.

"... the success of resistance behavior depends largely on the victim's ability to apply it."

In Case No. 4, not even the rapist was prepared to state what his reaction to resistance would have been.

Three Critical Variables in Confrontations

This article opened with a statement that we would offer confrontational advice only if we had specific information about three critical variables: 1) the environment of the assault, 2) an understanding of certain personality characteristics of the victim, and 3) the type and motivation of the rapist involved. We believe that these three variables dictate the shape a confrontation will take, and we advise police, field experts, and potential victims themselves not to give or act on advice that does not take these factors into account. Below, we describe these three critical factors.

Location of Assault—The advice one would provide to a victim encountering a rapist in a shopping mall parking lot at 4:00 p.m. would certainly differ from the advice given for an encounter occurring at 4:00 a.m. on a deserted roadway. Use of a noisemaker would be futile in the latter situation, but may be successful in the former. To advise a person to fight, scream, defecate, or use disabling chemicals or gases is insufficient in itself. Victims must tailor their type of resistance to the environment in which the attack is occurring. Above all, potential victims should not be lulled into a false sense of security because they have a whistle or can of Mace in their pocket. Such confidence may actually increase their chance of becoming a victim.

Victim Personality—The personality of the victim strongly impacts on how she will react in a confrontation. A passive and dependent personality will have extreme difficulty implementing advice to be assertive and physically aggressive in a confrontation where a physically larger male has awakened her from sleep. Conversely, an independent and assertive individual will be hard pressed to submit to a violation of her body without a struggle, even if she has been advised that passivity is her best course.

Anyone providing advice to an audience must remember that there are as many different personalities present as there are audience members. To influence effectively the decisionmaking process of an audience, one must consider these variations and must stress that the success of resistance behavior depends largely on the victim's ability to apply it.

Type and Motivation of Rapist—In our opinion, the most important unknown variable to consider when giving advice to potential victims is the type of rapist they may confront and the motivation that underlies his sexual attack. Is the victim being confronted by an inadequate male who has fantasized a mutually acceptable relationship? By a sexual sadist who delights in the victim's response to physical or emotional pain? Or by an offender who desires to punish or degrade women? In each case, the motivation is different, and the rapist's reaction to the victim's resistance is correspondingly different.

The spectrum of advice offered by serial rapists earlier in this article underlines how strongly the type and motivation of the rapist colors the dynamics of the confrontation. To assume that all rapists are alike in type and motivation demonstrates a lack of knowledge and experience. As Groth and Birnbaum note, "Physical resistance will discourage one type of rapist but excite another. If his victim screams, one assailant will flee, but another will cut her throat."[3]

The following case ironically illustrates the importance of recognizing and considering the different types of rapists.

CASE NO. 5

In a large metropolitan area, a series of rapes had plagued the police over a period of months. In each instance, the rapist had controlled his victim through threats and intimidation. One evening, a hospital orderly went off duty at midnight and happened upon a male beating a nurse in an attempt to rape her. The orderly went to her rescue and subdued the attacker until the police arrived. Predictably, he received much attention from the city. Shortly thereafter, the orderly was arrested for the series of rapes mentioned earlier. During interrogation, he was asked why he had rescued the nurse when he, in fact, was guilty of similar offenses. He became indignant and advised the officers that they were wrong. He would never "hurt" a woman.

This offender did not, clearly, consider the two offenses as similar; he equated "hurt" with nonsexual trauma and either failed to consider, or ignored, emotional and sexual trauma.[4] His willingness to turn in another rapist shows how powerfully the motivations of a rapist affect his way of seeing and behaving in a confrontation.

To give advice to potential victims without consideration of these critical variables can be compared to a physician who would prescribe medication or recommend surgery without the patient's medical history and documenting the signs and symptoms that would warrant such medication or surgery. Individuals who profess to have expertise in criminal sexuality have an obligation similar to a physician—to advise on a case-by-case basis, and only with complete knowledge.

A Behaviorally Oriented Approach

Experts in the field take pains to broadcast valid crime prevention measures which individuals can take to minimize opportunities for the confrontation. They should also educate these same individuals in the variables involved in a rape confrontation so that they can prepare themselves in advance to handle the unexpected. While it may seem to be a cumbersome concept for one faced suddenly with a frightening situation, it removes the emphasis from one-dimensional techniques that may backfire and puts it where it should be—in advance preparation and training. In sports, athletes are trained to know their own strengths and weaknesses and to accustom themselves to different playing areas. On the day of their sports event, they are prepared to assess their competitors on the spot and adjust their final strategy accordingly. The same process holds true in many areas of life; to survive one must prepare himself for the unexpected. Similarly, potential victims have an excellent chance of surviving a rape confrontation if they are prepared in advance. They should be trained in assessing their personal strengths and weaknesses. They should be taught techniques of manipulating the environment to the disadvantage of the assailant, and they should be educated about the various types of rapists, their motivations, and assaultive behavioral patterns.

To date, we know of no such comprehensive training program, but we know that one is possible and must involve the cooperative participation of law enforcement, mental health, and crisis intervention professionals. The more thoroughly researched the variables are, the better they will be understood and the more effectively they could be taught and manipulated to the victim's advantage.

Conclusion

Field experts in the area of criminal sexuality have an enormous responsibility to the people they advise in rape resistance. Individuals tend to be fascinated by discussions of criminal sexuality, but they are almost unexceptionally naive and uninformed. Usually they are looking for an easy solution to a difficult problem and will accept at face value whatever piece of advice is offered.

Law enforcement officers who speak at workshops or seminars on rape confrontation techniques have an obligation to refuse to provide an easy solution. They have a further obligation to keep current with the research and to provide information that will help deter rapists. Confrontational advice which considers the three-variables approach may lack the simplicity and comfort that providing a whistle may offer, but it is a realistic approach to a complex situation that may help a victim understand more appropriate options in dealing with such an encounter. In light of new research, law enforcement officers who publicly advise one all-purpose solution to a rape confrontation may well be increasing the risk of injury to potential victims, and may, as a result, find themselves and their departments called by a brutalized victim as defendants in civil litigation.

We believe strongly that research of an interdisciplinary nature is necessary to develop a viable training program for victims confronted by a rapist. We foresee that such a program would provide potential victims with information about the various types of rapists and their underlying motivations, would teach potential victims to assess their abilities to resist, and would train them to control the environment to their advantage. We suggest to those who speak publicly on the subject to avoid offering single solutions to their audiences and to start laying the groundwork for a truly effective training program.

Footnotes

[1] R.R. Hazelwood and A.W. Burgess, eds., *Practical Aspects of Rape Investigation; A Multidisciplinary Approach* (New York, NY: Elsevier Science Publishing Co., Inc., In Press).

[2] A. Nicholas Groth and H. Jean Birnbaum, *Men Who Rape* (New York, NY: Plenum Publishing Corporation, 1979).

[3] Ibid.

[4] R.R. Hazelwood, "The Behavioral-oriented Interview of Rape Victims: The Key to Profiling," *FBI Law Enforcement Bulletin*, vol. 52, No. 9, September 1983, pp. 8–15.

Summer Beach Patrol

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For years, the City of Huntington Beach, CA, has faced the problem of dealing with thousands of people who are attracted to its renowned beaches, water activities, and sporting events during the summer months. This article describes an economical, effective, and community relations-oriented program the Huntington Beach Police Department has developed to address this problem.

The police department has long recognized that the seasonal need for police services places a great burden on the department's budget and its 200 sworn officers. To provide these services for the city beach in a cost-effective manner and to reduce the burden on the department's resources, a pilot program was initiated in the summer of 1973. This program featured a group of trained civilians who were hired as adjuncts to the full-time complement of police officers assigned to the summer special enforcement detail. The civilians, known as community liaison patrol officers (CLP), were supervised by a sworn officer. Although they worked a daytime foot patrol in the beach area, they were formerly considered to be a separate group from the sworn officers assigned to the beach contingent. The CLP worked with the philosophy of being very public relations-minded and used a low-key approach in dealing with violations of alcohol-related ordinances. CLP officers completed a training program which gave them limited peace officer powers, including the authority to cite and arrest for specific city ordinance violations. For example, persons drinking alcoholic beverages were requested to empty the containers of alcoholic beverages they held, and if they complied, the contact would end. This was in contrast to the high-profile enforcement efforts of the sworn officers who took more formal action in most instances of law violations.

After a successful start, the program was terminated in 1975 with the loss of Federal funding. In 1980, the program was reinstituted, using a combination of reserve officers and high school teachers to form the community liaison patrol. Changes in the program included new personnel, modifications to the old uniform, increased responsibilities, and a new title—beach liaison detail (BLD). Changes in the sworn officer special enforcement detail included more uniform assignments as opposed to plainclothes assignments, the use of three-wheel, all-terrain vehicles, a name change to the tactical enforcement squad (TAC), and a

Lieutenant Biggs

Earle W. Robitaille
Chief of Police

merging with the beach liaison detail in the summer of 1985, which joined the two units for the first time into one coordinated unit.

Organization and Administration

In 1985, the beach detail consisted of six sworn officers ranging in experience from 5 to 16 years in law enforcement. Three of the officers were members of the 1984 TAC squad, one was a member of the 1980 TAC squad, and two had no previous beach experience. The sworn officers were selected for the beach detail in March after submitting a request for assignment. Factors which the selection board considered included the applicant's history of motivation, evidence of self-initiated activity, physical condition, ability to deal with the public and to present a professional appearance, and a demonstrated ability to make quick, professional decisions and apply them tactfully in crowded, pressured situations. The officers also agreed to waive vacations during their summer deployment. The unit supervisor (a patrol sergeant) and the patrol bureau commander (a lieutenant) reviewed the applicants' personnel files and memos requesting assignment. Their choices were reviewed and approved by the Uniform Division commander under whose command the beach detail functioned.

After selecting the sworn officers, the next step was to choose the civilian members of the unit. The organization chart for the detail required that civilians were to come from the faculty ranks of area schools. Only one member of the previous civilian team was available for the summer of 1985, with one other member available to assist in the training of new civilians selected for the detail. The problems of how to select qualified people and train them adequately in a short time now had to be solved.

The recruiting and hiring of the civilians were handled by the Personnel Bureau of the Huntington Beach Police Department's Administrative Services Division. The former civilian members used their contacts with the local school districts to have a job announcement published in a teachers' publication. The announcement described the duties the candidates would be performing, their working conditions, and desirable qualifications. After this, two informational meetings were held, in which prospective applicants were able to hear a presentation on the detail given by the two previous members of the civilian team and ask questions. These meetings were also attended by the lieutenant assigned by the acting Patrol Bureau commander.

After receiving the prospects' applications, department personnel interviewed the candidates. The oral board consisted of the lieutenant under whose command the unit would function, an Administrative Services Division sergeant, and the personnel officer from the police department. The personnel officer conducted a thorough background investigation, including a polygraph examination, of each candidate. As part of the hiring process, the new civilians agreed to complete a training program on their own time, with the understanding that they would be paid for their time only if they completed it successfully.

The civilians hired for the 1985 program ranged in age from 32 to 38 years, with 5 to 12 years' teaching experience. The candidates selected included two science teachers, a women's athletic director, a special education teacher specializing in speech disorders, a social science teacher (who was also the returning experienced member), a high school basketball coach, and the athletic trainer in a high school. The police department specifically selected education system members for the program for four reasons: 1) Their availability during Easter week and the summer months, 2) their prior demonstrated ability to relate to teenagers and young people, 3) their ability to perform in the public eye and accomplish specific objectives, and 4) their ability to learn quickly and practice what they have been taught.

Training

The training program for the beach detail combined theoretical and practical aspects for both the sworn and civilian members in the classroom and in the field. Because of logistical problems, the classroom portion of the training program required that separate sessions be held for each group.

During the first day of training for sworn officers, an overview of the detail and its mission and boundaries within which it would operate were covered, in addition to a review of applicable rules, regulations, and department procedures. The second training day entailed the familiarization, care, and use of the three-wheel, all-terrain vehicles (ATV's) the detail would use. This practical demonstration of the use of ATV's occurred on the city beach and required the officers to demonstrate riding skills at an acceptable level of timed performance under open and obstacle-course conditions. Both training days were scheduled as part of the officers' regular 40-hour workweek and required no overtime.

The training for the civilian members of the beach detail began with a 40-hour training program required by the California Commission on Peace Officer Standards and Training before receiving peace officer powers to arrest and cite. This course was conducted at the criminal justice training center of a local college and included instruction in the history of law enforcement, ethics, laws of arrest, search and seizure, firearms training, including their moral and legal use, discretionary decisionmaking, and methods of arrest. All civilian members of the liaison detail received 12 hours of arrest and control training from a member of the department who is a qualified instructor at the police academy. The trainees had to demonstrate their knowledge of the arrest and control techniques and their ability to perform them to the satisfaction of the instructor before they would be accepted by the department. Concurrent with the arrest and control training, the beach liaison members received training in the procedures, practices, and policies of the beach detail. Some of the areas covered in detail were report writing, issuing citations, arresting and booking procedures, evidence procedures including collection, preservation and booking, philosophy of the unit and job performance expectations, and orientation to and use of the radio.

During the classroom training, each liaison member received sample reports, citations, and condensed reference materials of applicable local and State laws and engaged in several in-class exercises to become familiar with the use and completion of official reports and forms. The members had previously received radio code books, and by self-study, had acquired familiarity with the most often used codes. At the completion of the classroom training, the civilians were sworn as special officers whose powers are restricted by ordinance to enforcing laws relating to State and local ordinances relating to beaches, bicycles, and parking violations.

The field training portion of the process began once the members had

"The use of civilians greatly reduced the cost of operating the beach detail."

been sworn. Liaison members were paired with sworn officers and worked in uniform under the regular officers' supervision for 5 days, at which time two liaison members were paired and worked as a team under the supervision of a sworn officer for another week. The purpose of the 2-week, on-the-job training was to develop the trainees' practical skills to the point that they could function without constant supervision. At the completion of the 2-week training period, each member's progress and ability were evaluated by the sergeant supervising the unit, who decided whether the trainees had achieved a level of proficiency equal to the department's standards or if additional training was needed. Because of their motivation and enthusiasm, all the trainees passed the course and were given their assignments.

The mission of the beach detail was to provide a high level of police service to the beach community by enforcing a variety of laws and municipal codes pertaining to beach use. The duties of the sworn officers and liaison officers were similar in some ways, but different in others. Both were charged with the enforcement of the law and service to the community. The sworn officers were assigned to day and night shifts, working foot beats, mobile assignments on ATV's and four-wheel drive vehicles, and some plainclothes assignments. The liaison officers were assigned as support personnel handling transportation and prisoner booking assignments, along with foot patrols which included citing and arresting persons who violated the law. Liaison officers were assigned to daytime hours, working in uniform, and occasionally to a plainclothes detail working with a sworn officer.

The uniforms worn by the beach detail members were easily distinguished as police uniforms, but they were different for the sworn officers. The sworn officers wore white short-sleeved shirts embroidered with POLICE across the back and had department patches on the sleeves, navy blue hiking shorts, black leather athletic shoes, and white socks. Sworn officers wore fully equipped Sam Browne belts, including batons. Liaison officers wore tan wash-and-wear shirts with department patches and a cloth label reading BEACH LIAISON in place of a badge, tan hiking shorts, and white leather athletic shoes. They also wore Sam Browne belts equipped with radio holders and handcuffs. Although the liaison officers received firearms training, they were unarmed. Both sworn and liaison officers wore dark blue baseball hats with POLICE embroidered on the front.

Operation

The city beach is open all year from 5:00 a.m. to midnight, 7 days a week. Daytime crowds are normally largest from 11:00 a.m. to 4:00 p.m., while nighttime beach goers are present on any night but especially on Friday and Saturday. To provide adequate coverage, the liaison officers were assigned a 5-day, 40-hour workweek with shifts from 10:00 a.m. to 6:00 p.m. Sworn officers, who are normally on a 10-hour day, 4-day workweek, were assigned two 12-hour shifts and two 8-hour shifts. To give maximum coverage to the beach, the 8-hour shifts were 10:00 a.m. to 6:00 p.m., and on Friday and Saturday, the 12-hour shifts were either 10:00 a.m. to 10:00 p.m. or 1:00 p.m. to 1:00 a.m. Working the same hours as the liaison officers allowed all personnel to attend one briefing session and helped establish a professional bond between the two groups. Transportation and booking of prisoners on Friday and Saturday nights were conducted by reserve officers who worked 6:00 p.m. to 1:00

"The beach detail program matured into a successful, cost-effective operation which created a pool of trained liaison personnel."

a.m. For the liaison officers, days off were at fixed times during the mid-week. The sworn officers rotated their days off; all officers worked Friday and Saturday, which experience showed to be the busiest days of the week.

Citizen Contacts

The most prevalent violations of law were possession of alcohol and drugs. These controlled substances were the basis for nearly all problems experienced by the beach detail. The use of discretion in enforcing the alcohol prohibition laws on the beach was encouraged, and guidelines for this use were covered during training. Basically, adults who were unaware of the alcohol prohibition were told of the ban and asked to comply with it. If they did so, no action was taken. Adults who showed knowledge of the law by concealing an alcoholic beverage in a separate container or with the use of camouflage were cited or arrested as needed, and in all cases involving juveniles, action was taken by the investigating officer. The alcohol in question was poured out at the scene and so documented in the reports. Action was taken in all cases of violators in possession of drugs. During the summer deployment, the beach detail was involved in more than 1,900 violator contacts. They also assisted in the location of 16 lost children.

There were few incidents in which violators were combative or uncooperative. Beach detail workers were especially careful to establish positive contacts with the public. Arresting officers routinely told violators at the beginning of the contact that they would be cited and released if no compelling reason to the contrary existed. This seemed to reduce the violators' anxiety levels greatly. The professional attitude and demeanor of the beach detail members were commented on frequently and even drew favorable comments from some violators.

Program Effectiveness

The use of civilians greatly reduced the cost of operating the beach detail. In the past, the department had relied on sworn officers working overtime to fill the need; thus, the financial aspects of the situation were a great burden to the department. Another consideration in evaluating the program was the overall well-being of the officers involved in the assignment. Having civilians as part of the program allowed excellent coverage without requiring anyone to work the long hours necessary in the past. This created high morale and improved attitudes among the officers throughout a long, busy summer. The beach detail program matured into a successful, cost-effective operation which created a pool of trained liaison personnel. The civilian component of the program is now prepared to work side by side with regular officers during special events, such as Easter week, and during the summer months, as well as other times when a dramatically increased beach-going population presents a major challenge to the Huntington Beach Police Department.

The beach detail received many favorable comments about its performance from citizens visiting the beach, as well as beach area business owners. One comment from a first-year business owner, which was sent to the chief of police, read:

> "We would like to take this opportunity to congratulate you and your beach patrol for making our first summer at the beach such a pleasure. We are new in your business community and were very wary due to all the negative feedback we received (about summertime on the beach) before opening. All our fears were proven groundless due to the excellent efforts of your beach personnel. Every time there were confrontations, your staff responded quickly and efficiently, taking immediate control of the situation."

One frequent beach goer who is a retired police officer and now an administration of justice instructor in a local community college wrote:

> "The ability of the civilian members of the beach detail to handle problems and convey a positive image of the police department became obvious over the course of the summer, as did their ability to interact with the sworn officers and be team players."

The sworn officers assigned to the program also made many favorable comments about the ability and performance of the liaison officers. One officer assigned to the beach detail summed up his feelings by saying:

> "I was somewhat skeptical at first about working with civilians in this type of setting, but after working with them over the summer, I would work with them anytime. They proved themselves."

As this comment reveals, the interest and involvement of sworn officers in the training process, followed by daily contact with them, gave the regular officers ample opportunity to assess the abilities of the liaison officers. Overall, the program was a success and will be continued.

Confidence Schemes and Con Games

Old Games with New Players

"Law enforcement officials' initial challenge in combating the con artists is to learn and develop a thorough understanding of their activities."

By
OFFICER RONALD J. HEINTZMAN
Transit District Police
Tri-County Metropolitan Transportation District of Oregon
Portland, OR

A stranger stops you on the street and asks, "Please, will you help me?" The stranger appears genuine and sincere, expressing a look of worry and concern. You ask what is wrong, and the stranger, who is holding a bulging envelope, tells you that she just found a large sum of money and doesn't know what to do. If you continue listening to the stranger's convincing story, you may be well on your way to being "duped" by a professional con artist. The end result . . . potential loss of your life savings!

Con artists and tricksters have been around as long as people them-

Officer Heintzman

Charles E. Hill
Chief of Police

selves. With smooth talk and fast action, the con men use various deceptive means and methods to "throw off" potential victims and spectators who think they know what's going on and are capable of adapting quickly to suit any occasion or situation.

Dice and coin throwers, Three Card Monte and shell game operators, pigeon drop and Jamaican boy artists . . . whatever their con or confidence scheme, you're likely to find them, or at least hear about them or their activities, in almost every part of the country. Whether it be the core area of a large metropolitan city or at a bus or train station in some small rural town, the modern day con man can hit unexpectedly.

Most people have a particular crime that they believe ranks as the "worst." For some it's murder; for others, it may be selling drugs. But for many, it's the con games and confidence schemes. It may seem an odd choice for a "worst crime" list, since con games are usually nonviolent and relatively unknown to the public-at-large. However, it is a crime that ranks in heartlessness. Con artists are considered to be the most devious, the most harmful, and the most disruptive for society because they break down the major values of social order—honesty and trust.

The con games themselves are simplistic, almost infantile. But they work because a con man can win complete confidence, talk fast enough to keep the victim slightly confused, and dangle enough "temptation" to suppress any suspicion or skepticism.

Traditionally, the primary targets of these confidence men are the elderly and women. Their primary target locations appear to be inner-city core areas, shopping centers, schools, and mass transit systems. Thus, huge masses or gatherings of people appear very attractive to the con artists.

While most of the con games are centuries old, occasionally a new scheme will surface. Law enforcement officials' initial challenge in combating the con artists is to learn and develop a thorough understanding of their activities. Gaining a working knowledge of the confidence scheme and con game mechanisms is essential to police in being able to plan and carry out a viable enforcement program.

The Confidence Schemes And Con Games

Deception and misrepresentation are the survival skills of the con artist, and like any other craftsman, the con man continually strives to improve his street-smart skills. Though many of the schemes and games would appear "suspect" to a reasonable and prudent person, the con's uncanny skill and ability to deceive and fool must not be overlooked. The scams employed by con artists can be broken down into two types—confidence schemes and con games. Con games are usually the types of games or tricks associated with a carnival or circus. Confidence schemes, on the other hand, are the more-detailed, elaborate, and at times, sophisticated ploys used to defraud another.

Con Games

THREE CARD MONTE is a widely known trick derived from a game known by different names, i.e., "three sea shells,"[1] "find the lady," or "three-card shuffle." Basically, it is a card game played with three cards, usually a picture card and two number cards. The operator picks up one number card with his left hand, using the thumb and second finger. In the right hand, which does the actual work and deception, the second number card is placed between the right thumb and the second finger. The operator than throws down the cards, the right hand dropping the picture card, the left hand drops it's card, and the right hand drops the other number card. The three cards are then moved around, face down. The player is told to watch the picture card (bottom card) and choose where it winds up after movement.

Even working the trick honestly, many people have difficulty following the picture card. Performing the game again, the operator throws down a card from the right hand, followed by the left, and then the right. This time, however, instead of throwing the picture card down first (which is the lower of the two right hand cards), the upper card in the hand is thrown down first. The deception lies in the operator making the two movements look exactly and precisely alike. It is slight-of-hand movement of the cards. There are other methods of deception that the operator may also use, such as miscalling the card he picks up.This is done to let the player win, even though he picked the wrong card. The operator sets the player up in this way, with intent to get the player to wage bigger bets on subsequent games.

Still another ruse is worked by the operator's confederate (called a shill). The operator's attention is intentionally distracted, during which time the shill turns up the cards swiftly, showing the picture card and bending a corner on it. The shill then points out to the player and audience the kink on the corner of the picture card, winks knowingly, and then assumes an innocent composure as the operator directs his attention back to the game. But, when the player chooses the card with the bent corner, he loses, for the one picked turns out to be a number card. The game operator, unknowing to the player, had taken out the picture card with the bent corner and replaced it with a bent-cornered "number" card. By turning over one card with another card, the game operator exchanges the two cards imperceptibly by sleight-of-hand. This move is known to conjurers as the Mexican Turnover.

The SHELL GAME is perceived by a player as a game of chance.[2] However, the operator has total control of the game, with no chance of the player winning. The game is played by the operator showing three shells (or bottle caps) under which an object (pea) can be concealed. The pea is made of flexible, soft, pliable material, frequently a woman's makeup sponge. The game consists of the operator placing the pea under one of the shells and moving the pea from shell to shell by quick movement of the hands. The player then wagers money, which the operator usually matches, to guess which shell conceals the pea. If the shell chosen by the player does hide the pea, the player wins; if not, the operators wins.

The deception is that the operator controls (pinches) the pea between his fingers, unknown to the player. The pinch is made while the operator is moving the shells around, by slightly lifting the shell with the pea under it and rolling and pinching the pea between his fingers. When the quick movement of the operator's hands stops, the player assumes that the pea is located under one of the shells. But, in reality, the pea is pinched between the operator's fingers, concealed from the player's sight. Only when the operator is illustrating how the game works does he leave the pea under one of the shells.

If a shill is used, the operator will leave the pea under one of the shells known to the shill. The shill then wagers money, chooses the right shell, and to onlookers, appears to win big. This is a "con" to attract players, making it appear to be an easy game. The underlying principle of this game is that the operator is always in control of the pea, deceiving the player into thinking there is a chance of winning.

DICE are one of the most ancient gambling instruments known to man and are commonly used by the con artist on the street, since they are small and easily concealed. There is little to skillful play in dice games other than knowing the odds in various bets and not placing bets when the odds are unfavorable. However, unknown to the player, a "slick" con man can gain a decided odds advantage in these games by using certain cheating and control techniques. With practice, these control and cheating techniques appear very natural and are difficult to detect by the unsuspecting and untrained player.

In the game of craps, for example, any number of people from two and up can play.[3] Players bet among themselves, and the player who starts the game (shooter) announces his bet or wager by placing it in the center circle of players. Any other player may wager any portion of the bet as they wish by placing that amount in the center with the "shooter's" bet. A player may not bet more than that wagered by the shooter. If the shooter rolls a 7 or 11 (natural) on his first roll of the dice, he wins. If he rolls a 2, 3, or 12 (craps), he loses. The shooter has a point to make

"Police and prosecutors need to coordinate plans to deal with and prosecute the culprits effectively."

if the roll is a 4, 5, 6, 8, 9, or 10. When the shooter makes a point, he must pick up the dice and roll them again. He rolls as often as necessary, winning (passes) if his point appears again before a 7. The shooter loses (misses) if he rolls a 7 before his point. All intervening rolls are meaningless.

When the shooter loses, all players take their winnings from the center bets. The player takes double the amount of the bet, since all bets are at even money. When the shooter wins, all the money in the center belongs to him. There are other side bets in a crap game, in addition to the center bets. Players may bet with the shooter or among themselves as to whether a point will be made on a subsequent roll or whether the shooter will win or lose on the next roll. The rules are pretty clear, and the game odds appear fairly even. But, beware of the con artist who can make the odds swing to his advantage by cheating and deception.

One technique often used is the "carpet roll." This is a dice control technique that begins with a phony dice shake by the shooter, which is done by letting the dice rest on the second and third fingers of the hand. The shooter forces the fingers back slightly, so that a pocket is formed. The fourth finger, first finger, and tip of the thumb lock the dice so that they cannot get out of this "cubelike" formation of the hand. Shaking the dice violently, the shooter gives the false impression that the dice are moving around in his hand naturally. However, the dice are loose enough that they will not shift or turn over in the hand. After the phony shake, the shooter pushes the dice out of his hand with his thumb as he makes the throw. The dice roll smoothly off the fingers together, end over end without turning sideways. The principle behind this control is that it allows the shooter to roll only certain numbers.

The "slide host," another simple dice control, requires the shooter to pick up both die, one on top of the other. The bottom die is held tightly by curling the little finger of the hand around it. Shaking the dice, the top one rattles against the gripped bottom one, and the sound produced is quite convincing to those not accustomed to hearing the rattling sound of dice being naturally shaken. As the shooter throws the dice, the little finger gripping the bottom die brushes the surface, and the top die rolls off, tumbling freely.[4] The bottom die simply slides across the surface with its less natural action not noticed easily, because the natural instinct of the eye is to watch the rolling die. The principle behind this control is that the top number of the bottom die is controlled, giving the shooter a big advantage or odds.

Many other dice control techniques may be employed by the con artist. These include the use of loaded or mis-spotted dice, finger palming, and so forth. Though the street con may use the simple control or cheating techniques, one must at least be familiar with the more sophisticated and talented operator.

The COIN GAME is another form of scams employed by con artists. The object is to toss a coin against the wall, betting against your opponent. The one whose coin lands closest to the wall after landing and coming to a stop wins! The game appears to be an even-chance proposition. But, beware of the weighted coin. Weighted coins give the con man the best odds at landing his coin closest to the wall on almost every toss.

Other coin games in which the con man solicits bets include using identical-sided coins and skeleton or hollow coins consisting of a shell and insert. The underlying principle of these games is that the con artist distracts the victim or spectator's attention by fast talk and action. He makes the switch or employs deception, unnoticeable to onlookers.

CURRENCY CONS are initiated by a victim being approached by a stranger holding a $10 bill and asking for two $5 bills. Only after the change is given does the victim realize that he was given a $1 dollar bill instead of a $10 bill.

The con artist clipped the corners from four $10 bills and pasted them to the corners of a single dollar. Holding the bill in his hand, the con man covers the written denomination on the currency with his thumb. The con man easily exchanges the four partially mutilated $10 bills for new ones at a bank. He now has four "fresh" bills to use in pulling another scam.

Another currency con involves the use of play or phony money. Some financial institutions and loan companies advertise by using fake money notes. The notes are usually the same size as currency and depict a certain dollar denomination on one side and business advertisement on the other side. The paper is clearly fake, simply a "play money" note. The con man, however, takes great pride in making the play money look as real as possible. He will crumble it, get it dirty, press it, and repeat the process over and over again. For the "pass," he usually chooses a store clerk or teller, for example, who is extremely busy.

The con artist will cut into a line of customers, and with fast talk and action, place a phony bill on the counter, requesting change and telling the clerk that he is in a real big hurry. With his hand held firmly over and covering all but a tip of the phony bill, the con talks loud and fast, slightly confusing and embarrassing the clerk. His actions are intended to get the clerk excited, so rushed and confused that she hardly knows what she is doing. If proper procedures for handling money are not adhered to, the clerk will make change just to get "rid" of the bothersome and disruptive intruder. Once the clerk counts out the change money on the counter, the con man quickly picks it up, pushes the phony bill forward and runs. Picking up the bill, the clerk immediately realizes that it is phony. However, the con man is long gone.

Confidence Schemes

Most of the confidence schemes have been used time and time again, and you would suppose that no one would continue to be victimized. But, adding a new "wrinkle" or "twist" to the scheme makes it successful and extremely profitable in modern times. Though the same scheme may be disguised and employed in a variety of ways, depending on the acting performance and skill of the con artist, the basic plot remains essentially the same.

The PIGEON DROP is one of the oldest confidence schemes in existence, said to have originated in China more than a 1,000 years ago. The victim is approached by a con artist who initiates friendly conversation in an attempt to gain the victim's trust and confidence. A second con artist then enters the scene, claiming to have found a large sum of money. After some discussion and great acting on the part of the con artists, the victim is offered to split the found fortune. The money is to be divided later. The catch, though, is that the victim is required to put up some "good faith" money during the interim. The victim is given the money to hold for safekeeping, but not before envelopes are switched by a sleight-of-hand act. Later, the victim discovers that the envelope contains nothing more than worthless pieces of paper.

In the JAMAICAN BOY SCAM, a con artist, using a phony foreign accent, approaches a victim asking for help. He tells the victim that he is a stranger in town and doesn't know anyone he can trust. The con man displays a huge roll of money, asking the victim to hold it for him, though not until the victim puts his money together with the con's money as a "show" of real trust. The con artist then offers to demonstrate a safer way for the victim to carry the money. Wrapping the money in a handkerchief and placing it down the front waistband of his pants, the con explains that people in his country carry their valuables in this fashion, so as to thwart a potential pickpocket. The handkerchief is then given back to the victim, but not before a switch has been made. Using a ruse to separate himself from the victim, the con man disappears. Opening the handkerchief, the victim discovers that it contains play money!

The DOUBLE SHOT or PHONY COP SCAM consists of repeated hits on the same victim. After being flimflammed once by a con man, the victim is contacted by associates of the first con man. Posing as police officers, they tell the victim that he or she had been swindled by the first con, who is now attempting to get the rest of the victim's money. The phony cops tell the victim to withdraw all remaining money from the bank and turn it over to them for safekeeping, until the con artist is caught. The con men may even go as far as to drive the victim to a real police station, while one of them goes inside to supposedly deliver the money to a superior. The victim is fleeced out of every last dime he or she owns.

With the BEGGER or SYMPATHY CON, con artists may approach victims on a busy street, in a restaurant, or wherever, giving a bad luck story and asking for help and money. Though a variety of ruses may be used, the most profitable con appears to be the "help me feed my starving children" scam. Also called the "silent con" because he rarely speaks, the con artist will prepare a cardboard sign which he holds while standing or sitting on a public sidewalk. The sign may indicate that he is not lazy, but that he can't find a job and has three children at home to feed. The con man may even go as far as to include photographs of children (not his own), along with some cleverly thought out hard-luck slogan. Putting on a great acting performance, the con man appears embarrassed and distraught by lowering his head and looking away from passersby. In the right location, this sympathy con can net hundreds of dollars in a matter of hours.

In the BANK EXAMINER PLOY, a con artist posing as a bank examiner, an auditor, or even an FBI agent, contacts the victim to solicit his or her help in apprehending a "dishonest" bank teller. The victim is asked to withdraw money from the bank and turn it over to an official from the bank who will contact him or her later. The victim is often offered a substantial reward when the "dishonest" teller is arrested and convicted and is sworn to secrecy about the "undercover" investigation. The victim turns the money over to the phony bank official and never sees it again.

"As important as the concentrated law enforcement effort is in combating the con artists, so is the need to educate the public."

The MERCHANDISE SWINDLE, also known as the "weighted box" scam, entails the con artist contacting a victim on the street or parking lot and offering to sell a particular item, such as a radio or television set. The con man shows boxes of the same article, all wrapped and sealed. He tells the victim that his uncle has just sold his business and is liquidating all remaining inventory at "rock bottom" prices. Too good a deal to pass up, the victim pays the con man, later realizing what he brought at "rock bottom" price. The victim is the proud owner of a box of rocks.

In the HOME REPAIR CON, the con artist poses as a home repairman, offering to perform a free inspection. The con man wears an official-looking work uniform, bearing some fictitious company logo, and often presents some form of false identification. He suggests a list of needed home repairs at a good deal, if the victim is willing to make, in advance, a "small" down payment. The victim pays, an appointment for the work is made, and the con man leaves, never to return.

The STORE CLERK CON is usually committed during the busiest shopping time of the year, when people become more and more frustrated with the long wait to reach the checkout counter. A sharply dressed man or women wearing a store nameplate will approach customers who are waiting in line, show sympathy for the long wait, and offer to take the purchase to the cashier to speed things up. The store clerk tells the customer to remain in place and that he or she will be right back with the purchase and any change. The store clerk disappears into the crowd, and so does the money.

Because of the con artist's uncanny ability to adapt quickly to changing times and socio-economic situations, the list of con games and confidence schemes is never ending.

Cracking Down On The Con

Since con artists may hit an area unexpectedly, law enforcement officials need to react quickly once their activities are uncovered. Police and prosecutors need to coordinate plans to deal with and prosecute the culprits effectively. Prosecutors and courts may need to be educated as to the con games and schemes, since those in smaller or rural cities may have seldom, if ever, been exposed to such activities. Existing and possibly outdated local ordinances may need revision since they might not survive constitutional or legal challenges.[5] There may even be a need to suggest new ordinances, since State or other laws may prove too vague in dealing with some or certain aspects of the con artist's activities.[6]

Because of the high degree of mobility of con men, the initial task of law enforcement personnel should be to identify the active operators in their area as soon as they begin to surface. Some con men work circuits, moving from city to city and State to State. Local records may be queried to identify the pattern and frequency of the con man's movements.

To begin, police should compile a photograph and modus operandi profile on all active con artists working their area. Since police, even working in undercover roles, will seldom catch the con men in the act of committing one of his cons or scams, such profiles will greatly aid in victim identification of the "rip-off" artists. Courts have generally agreed that if conducted properly, photographic lineups are a legally accepted method for suspected identification. A department's legal adviser or local prosecutor should be consulted regarding the proper guidelines or rules for photographic lineups in each jurisdiction.

Each profile should contain a mugshot (if available) and all pertinent physical descriptive information. In addition, and most important, the profile should contain specific information about the con artist which will assist police with their investigative efforts, i.e., games/schemes, targets, equipment/instruments, dress, jewelry, mannerisms, known associates, associated vehicles, and prior records.

Each con artist is distinctly different from his or her counterpart, in perhaps very minor, but identifiable, ways. Clothing, jewelry, or certain types of equipment, for example, represent a status symbol for the con man. It may be a particular hat, a particular style of footwear, a large flashy ring, a special brand or color of cards, or dice used. These "stand-out" articles will usually be worn or carried by the con man at all times, for they help create a persona which represents what the con artist would like to have been.

A complete profile of each active con artist in an area will prove to be an invaluable tool to police in identification, arrest, and subsequent prosecution. Becoming familiar with the individual characteristics and modus operandi of each active con men in his area, the police officer may often be able to identify the suspects from the victim's verbal or written description. Narrowing the field of suspects, articulation of the identification process in written reports, and followup with presentation of photographic lineups will greatly enhance in the arrest and successful prosecution of the con artist.

Exchanging information about con artist activities with other law enforcement agencies is also a good investigative aid. Through the use of crime bulletins, police are able to disseminate information regarding the con artist's activities, alert other agencies of possible movement of the con men to their jurisdictions, and prove a valuable source in identifying and obtaining information about "newcomer" operators.

Coinciding with good innovative police methods is the necessity for specialized training of police personnel to combat the con man successfully. Departmental training units and other agency resources should be used to provide officers and investigators with the technical knowledge and expertise necessary to beat the con artists effectively at their own games. There are also trained law enforcement personnel around the country with expertise in the con and confidence schemes. These professionals should be consulted, and their knowledge and assistance sought.

Educating The Public

As important as the concentrated law enforcement effort is in combating the con artists, so is the need to educate the public. Law enforcement officials should solicit cooperation from local television and newspaper media in alerting the public of the con men activities in their area. Police department crime prevention units might publish brochures and pamphlets containing information on fraud prevention, as well as providing film and lecture series in schools, to citizen and neighborhood groups, and to retirement communities. Cooperation and assistance should also be sought from local and national business groups and associations.

Citizens should be warned to be on guard against con artist activities. Fraud alert information bulletins and pamphlets may include the following "do's" and "don'ts":

THE DONTS

1) Don't trust anyone who proposes a deal "too good to pass up." It probably is too good to be true.
2) Don't stop and talk with anyone who flashes a wad or roll of money. This is bait that con artists use to draw victims.
3) Don't be too good a listener with strangers, and don't fall for any extravagant hard-luck story, no matter how convincing it may sound. Some con men work hard at gaining sympathy and confidence.
4) Don't ever put up any "good faith" money for anything and never pay cash for any promised service or product.
5) Don't invest money into any business scheme or adventure without first investigating the credentials and legitimacy of the person or company representing it.

THE DO'S

1) Do take con games and confidence schemes seriously. Con men are career criminals who prey on other people's willingness to help and on their inherent nature to trust.
2) Do be aware of the ploys con artists use. It can be something as simple as, "You look like you can be trusted" or "Do you want to make some money?" It may be anything that could draw a person into a conversation with them.
3) Do trust instincts and insights. If your "inner" voice tells you that something is "fishy," listen to it, it probably is!
4) Do read and watch news media reports on suspected confidence schemes being operated in your area. Familiarizing yourself with con artist activities is the best way to avoid being victimized.
5) Do report a scam, or an attempted scam, to the police. Your report of the incident may lead to the subsequent arrest and conviction of the con men and thus prevent others from getting "stung."

Strong public sentiment and support of law enforcement efforts against the con men tend to generate more pressure on prosecutors and courts to pursue vigorously prosecution and levy stiff penalties against the con artists for their activities. Tougher actions and sanctions will prove to force many of the con men out of an area, at least temporarily, and continued coordination with other agencies or jurisdictions concerning movement of the con artists will greatly aid police in maintaining some control over their activities.

FBI

Footnotes

[1] Ronald J. Heintzmen and Stephen J. Mirau, "Games of Deceit and Deception: Cracking down on the Con," *The Police Chief*, vol. LII, No. 6, June 1985, p. 40.

[2] Ibid, p. 41.

[3] Albert H. Morehead and Geoffrey Mott-Smith, *Hoyles Rules of Games* (New York: New American Library, Inc., 1962), p. 224.

[4] Nick Trost, *Gambling Tricks with Dice* (Columbus, OH: Trik Kard Specialties, 1975), p. 6.

[5] Title 14, Municipal Code of the City of Portland (Ord. No. 14.66.020).

[6] Ordinance No. 70, Code of Ordinance of the Tri-County Metropolitan Transportation District of Oregon (proposed).

Youth Court of the Tarrytowns

"Youth court is a serious attempt to deal with, and reverse, the alarming rate of juvenile involvement in criminal activity."

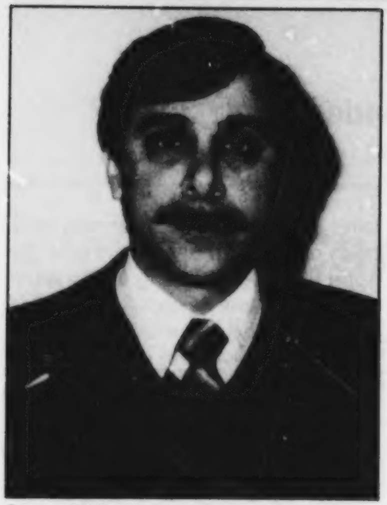
By
SGT. RICHARD A. PELLICCIO
Community Services Division
and
SGT. LAWRENCE W. KENNEDY (RETIRED)
Police Department
Tarrytown, NY

There is a low murmur in the courtroom, a shuffling of feet. The defense attorney is talking to his client; the prosecutor is conferring with witnesses. As the judge enters the courtroom, the bailiff calls the court to order.

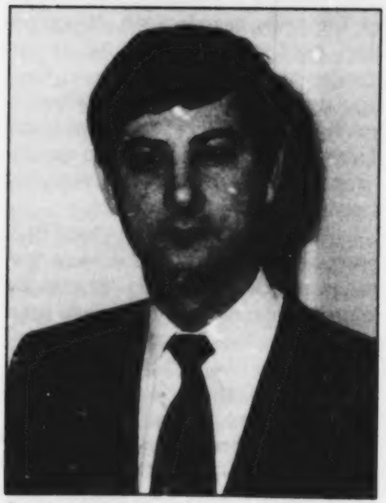
This courtroom scene describes any one of the thousands of courtrooms in this country. However, it is unique in that all officers of the court—the judge, the attorneys, the court clerk, and the bailiff—are under the age of 19, and the defendant is under 16 years of age. Sentencing here does not run into years, nor does the punishment include incarceration in a juvenile detention facility. Those found guilty serve for a period of hours, generally 1 to 50 hours, and the punishment is performing a community service, such as cleaning debris from park areas, cleaning police vehicles, or being assigned to assist local senior citizen groups.

The youth court concept was first introduced in California in the 1930's, but didn't gain popularity until the mid-1970's. The City of Oneida, NY, instituted a program designed along these lines in 1975, and other municipalities soon followed suit. The model for Tarrytown's youth court was taken from the Clarkstown, NY, program, which was formulated in 1981.

Youth court is a serious attempt to deal with, and reverse, the alarming rate of juvenile involvement in criminal activity. The objectives of the youth court are to reduce the incidence of



Sergeant Pelliccio



Sergeant Kennedy

juvenile-related offenses, to divert youths from the juvenile justice system, and to provide an alternative to the family court process, as well as to reduce further contact with the police. In youth court, transgressions of juveniles are dealt with by their peers. It is also a means by which respect for authority, as well as for the property of others, could be reinforced.

Financing for this project was received from the Federal Juvenile Justice and Delinquency Prevention Fund (JJDP) through the Westchester County Office of Criminal Justice Planning and the New York State Division of Criminal Justice Services. In addition to the $15,000 of Federal funding, monetary assistance was solicited from the community's public sector.

The participants in youth court—judges, attorneys, court clerks, and bailiffs—are between the ages of 12 and 19. Each receives 10 weeks of basic training in the law and the functions of the judicial system. The training, which is conducted by one of the authors and volunteer attorneys who reside in the community, takes place in the municipal courtroom and consists of demonstrations, lectures, and mock trials. Training manuals on basic courtroom procedure, the New York State Penal Law, vehicle and traffic law, the Alcohol Beverage Control Law, and village ordinances are issued to participants, since these laws are most often addressed by the court. Prospective candidates are trained in all facets of the judicial system so they may be conversant with any situation with which they may be confronted.

Even after new members complete their initial training, and after a court session has adjourned for the evening, all participants in the court are critiqued by youth court observers, who are other members of the program not participating in that evening's proceedings. Both positive and negative comments are solicited and addressed.

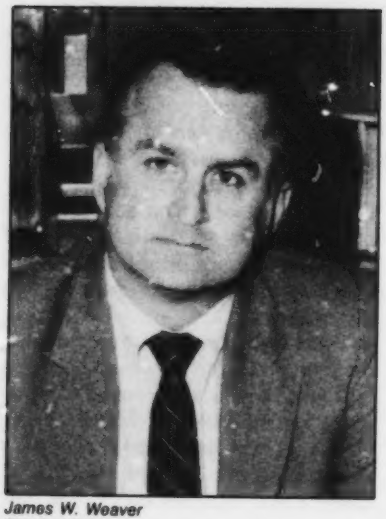
The youth court training is recognized by the local high school, which allows a social studies elective credit to those students who successfully complete the training and participate in the program.

The "defendants" in this voluntary program are youths between the ages of 7 and 15 who are accused of violations and nonviolent misdemeanors. They are given the choice of appearing before this peer court or having their cases heard in family court. The parents must also agree to this forum and sign a consent form that outlines procedures and rights. The types of offenses committed generally involve village ordinance violations, possession of small quantities of marijuana, petit larceny (shoplifting), trespassing, criminal mischief, and alcohol-related violations. Those juveniles accused of felonies or violent misdemeanors are excluded from participation in youth court.

One of the advantages for youthful offenders is that there is no permanent record of the offense. All court records are released to the offender on his or her 16th birthday. Family court does seal the records of an offender, but they can be opened by court order.

Juvenile offenders are being judged by their peers, other juveniles with whom they attend school and socialize. They are not being judged by a "common enemy"—the adult world. They no longer appear as "heroes" to their friends who may have looked up to them in the past as someone to emulate. Now, these same friends are the judge, defense attorney, and prosecutor dealing with their offense. In effect,

"Since 1983, the youth court has handled 145 offenders, only 3 of which are recidivists."



James W. Weaver
Chief of Police

the offender is being introduced into a social order where deviant behavior is not tolerated. It is no longer fashionable to get into trouble.

A typical case in that of a 14-year-old boy who was apprehended for shoplifting cassette tapes worth $8 from a local drugstore. He was given the option of having this case heard before his peers in youth court or having it heard in family court. The youth chose to have his case adjudicated in youth court and was issued an appearance ticket and a consent form for his parents' signatures. The youth was told that if he had no further conflict with the law, he would get his juvenile arrest records back at age 16.

The youth was assigned a defense team consisting of a 15-year-old defense attorney and his 14-year-old assistant. Accompanied by his parents, he appeared in court on the following Wednesday evening. (Cases in youth court normally are heard within 10 days of arrest.)

The youth pleaded guilty of charges of petit larceny and criminal possession of stolen property. The defense asked the court of leniency as this was the youth's first arrest. The prosecutor asked for the maximum penalty because the youth had participated in a juvenile shoplifting lecture given by the Tarrytown Police Department at his school the previous week.

The judge sentenced the youth to 37 hours of community service work and a 500-word essay on "honesty." The youth has completed his sentence and is now a youth court trainee.

Does the program work? In 1983, 20 juveniles were diverted from the already-overburdened family court, and another 25 juveniles who had committed an offense not normally heard by family court were also brought before the youth court. These latter 25 juveniles would normally have been overlooked and would give the appearance of "beating the system" and "getting away with it." They would have gotten lost in the cracks of the juvenile justice system, and possibly, would have committed other offenses, thinking that they were "untouchable."

Since 1983, the youth court has handled 145 offenders, only 3 of which were recidivists. Normally, family court has a 50-percent recidivism rate. Also, juvenile-related offenses in the Village of Tarrytown has declined 40-percent from 1983 to 1985, which can be attributed to peer group pressure. Recognizing the success of Tarrytown's youth court, the sister village of North Tarrytown, which continued to experience an annual increase in juvenile incidents, joined in the program.

The Tarrytown Youth Court Program has been featured in local and national media. Numerous requests for information have been received from areas throughout the country (Hilo, HI, Fort Myers, FL, and the U.S. Army base at Fort Ord, CA) and abroad. Recently, a video tape of the program was aired nationally in Japan. Independence, MO, and Cornwall, NY, have formally approved the concept and will soon have youths presiding in a youth court.

The Tarrytown Youth Court has been able to chart an enviable record of success. Those communities who are considering such a juvenile legal process or would like additional information, should contact Sergeant Pelliccio at the following address:

Tarrytown Police Department
150 W. Franklin Street
Tarrytown, NY 10591

Career Integrity Workshop

"The career integrity workshop is designed to enhance awareness of the importance of values, standards, and integrity in law enforcement."

By
DUANE PREIMSBERGER
Commander
Administrative Division
Los Angeles County
Sheriff's Department
Los Angeles, CA

Each year, tragedy strikes. The Los Angeles County Sheriff's Department loses 25 valuable employees who fail to survive in a dangerous, demanding occupation. Two of the 25 may die in the line of duty, making the ultimate sacrifice protecting their fellow man. The remainder are discharged, primarily as a result of misconduct.

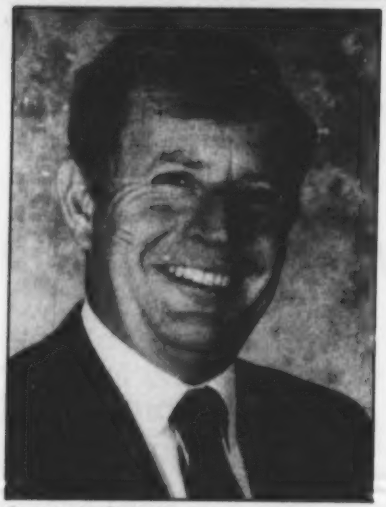
In terms of threats to careers, misconduct causes 10 to 15 times as many law enforcement officers to lose their livelihood than do attacks by criminals. As many are injured financially because of suspension, demotion, and other discipline as those injured physically in arrest situations.

Law enforcement agencies in Southern California direct considerable resources toward assuring that the officer on the street has the philosophy, capability, and training to survive in an environment where a life-threatening situation can develop without warning. Academy and inservice training programs focus attention on the need for law enforcement officers to plan their responses to the danger they encounter so as to avoid injury or death.

Despite the emphasis on officer survival, we continue to lose law enforcement officers to another insidious, less-publicized threat—the erosion of professional ethics. The result of inappropriate decisions relating to issues of integrity can be the suspension, termination, or even criminal prosecution of an individual sworn to uphold the law.

Police misconduct and lapses of standards, values, and integrity in law enforcement are not likely to vanish by themselves. They require the attention of everyone in the organization—from the chief administrator on down the ranks—and a commitment to a standard of performance in which inappropriate conduct, whether on or off duty, is countercultural. Reaching that point is not an easy task for any law enforcement agency.

The Los Angeles County Sheriff's Department began a search for an approach to heighten its members' level of consciousness about law enforcement integrity which would be effective, believable, accepted, and practiced. Surveys of university and college programs around the country were conducted, and evaluations of ideas in the fields of sociology, psychology, philosophy, religion, and management were made. Outside experts were consulted and other law enforcement agencies were contacted to identify potential programs. Although many thought-provoking ideas came to attention, neither an appropriate treatment nor a solution to the problem was identified. Finally, a solution was sought from the most obvious but frequently overlooked resource—the department's own line personnel. Volunteers were solicited to address the idea of creating a new technique for enhancing the ethical quality of decisions made by sheriff's department personnel. One lieutenant and five sergeants emerged as an effective grassroots cadre interested in the challenge.



Commander Preimsberger

Sheriff Sherman Block

The involvement of street-level supervisors proved to be a tremendous asset in the development of a program. They clearly understood the problem, had identified causes, saw opportunities for results, and were interested in seeking solutions. They were enthusiastic about being included as resources in a new, untried, and different approach. Additionally, they knew their future audience.

The group was given general instructions, which amounted to: "It's broken; fix it; talk to anybody you want; let us know when you've got it working." Thus arose the "career integrity workshop," a blueprint for a peer-oriented, consciousness-raising session designed to encourage individual thought about integrity, values, and standards.

The Career Integrity Workshop

The nature of the career integrity workshop is clarified by a statement as to what it is *not*. It is *not* a one-sided lecture or a presentation. It is a group discussion, the success of which depends on the level of participation and candor exhibited by the 10–15 personnel who attend each session.

Two trained facilitators (sworn sheriff's personnel of various ranks) monitor and guide the 4-hour discussions according to the established format. Their mission is to assist the workshop session in achieving the following objectives, as stated in the format introduction:

—To encourage self-examination,

—To enhance awareness of one's own values,

—To seek valid standards for honestly evaluating one's own decisions,

—To encourage accepting responsibility for our actions,

—To plan future decisionmaking according to our own values and standards and those of the sheriff's department, and

—To highlight common feelings of what's right.

Outline of Format

Each discussion group begins with a short introduction by one of the facilitators, who explains the background and objectives of the workshop and emphasizes the importance of participation and candor. (The 10–15 members of any given session are peers of uniform rank, so as to favor open, honest discussion among them.) The facilitator also stresses the confidential nature of the workshop, making clear that the expressed attitudes and past actions or decisions of each individual are not noted, discussed, or divulged afterwards by either facilitator.

In the first phase, an examination of specific law enforcement integrity issues begins with a discussion of prewritten scenarios which point up commonly used double standards and rationalizations. The issues reviewed in each workshop are the very essence of law enforcement ethics and range through gratuities, alcohol abuse, minor-to-major law violations, use of excessive force, verbal abuse, sexism, racism, perjury (including on police reports), overtime abuse, personal business during work hours, sleeping on duty, etc.

In a discussion group comprised of supervisors, managers, and executives, additional issues more uniquely related to their positions as role models for subordinates are also discussed, such as inconsistent discipline, negligent supervision, favoritism in evaluation, assignment or promotion, and intimidation.

In the next phase, an analysis of standards is encouraged. Participants discuss the practical application of police work of various existing written standards, such as the law enforcement code of ethics or sheriff's department policy. They are asked to articulate the standard(s) that they adhere to in making day-to-day law enforcement decisions.

The consideration of standards is followed by an examination of rationalization processes. The participants are encouraged to discuss honestly deviations from their own concept of what is right as expressed in the previous phases of the workshop. "Catch" phrases (e.g., "We've always done it that way," "Everyone else does it," or "They owe it to me") are discussed to highlight the role rationalization plays in eroding professional integrity.

Following a review of the objectives by the facilitators, the workship is concluded with completion of an anonymous critique form by each participant.

Facilitator Selection and Functions

The two sworn personnel who monitor each discussion group are crucial to the achievement of the workshop's objectives. Thus, the 24 facilitators currently involved in the discussion series were carefully selected according to the following criteria:

—Credibility, based on the perception among discussion group participants that the facilitator is honest, has a strong experience base, and sets a good example.

—Genuine appreciation of (1) the importance of integrity and (2) the discussion group approach as a means to enhance it.

—Sophistication in leading discussions without appearing judgmental or "pious," or conversely, inadvertently validating poor decisionmaking.

—Demonstrated loyalty to the sheriff's department and to law enforcement.

The facilitators' functions in the workshop setting are four-fold and must be accomplished without slipping into a "lecture mode" and without engaging in one-on-one arguments with participants or sounding defensive. First, the facilitator must keep the discussions going—keep them vibrant, educational, and goal-oriented. Second, he/she must elicit total participation by keeping the quiet people involved and by preventing the enthusiastic talkers from monopolizing the conversation. Third, the facilitator must keep the discussion on track by continually focusing on the personal values and standards of those in the group, not their supervisors or subordinates. And fourth, the facilitator serves as a knowledge and experience resource concerning department policy, statutory law, and case law.

Administering the Workshop

The Los Angeles County Sheriff's Department initiated the career integrity workshop as a "grassroots" pilot program at its Lennox Station in 1984. Since then, the department has focused its initial effort on two large categories of deputy sheriffs in its 6,300-person contingent of sworn personnel.

First, workshops are being conducted in an ongoing fashion for sworn personnel at the department's 19 other patrol stations. Second, the department's captains, commanders, and chiefs are simultaneously being scheduled for the sessions. It is anticipated that as top executives are introduced to the career integrity workshop, their genuine awareness and support of its techniques and objectives will facilitate the future plans for the program. These include expansion to the other five divisions of the sheriff's department (custody, detective, court services, administrative, and technical services) and scheduling the workshops departmentwide as permanent, recurrent experiences for all sworn personnel.

Conclusion

The career integrity workshop is designed to enhance awareness of the importance of values, standards, and integrity in law enforcement. It is *not* designed to instill ethics in peace officers or to preach to them about right and wrong. It is *not* intended to serve as a substitute for supervision. It is simply a forum for exchanging honest views in a professional, organized manner about one of the most crucial topics which faces law enforcement. Without the distraction of the "locker room talk" syndrome, deputy sheriffs can express their opinions and ideas and hear those of their peers, evaluating discrepancies and similarities and more precisely formulating the parameters of their own value system.

When a deputy humorously begins relating the circumstances of an arrest to his supervisor with the phrase, "Hey Sarge, this is an ethical arrest," we have cause to believe that we have at least raised the level of consciousness about standards, values, integrity, and decisionmaking. That is the beginning of a culturalization process that will continue throughout the Los Angeles County Sheriff's Department.

FBI

Raiding the Computer Room

Fourth Amendment Considerations

(Conclusion)

"... the legal standard by which ... searches and seizures [of computers and computerized information] will be measured is the same as is applied to searches less concerned with modern technology."

By
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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

Part I of this article examined the fourth amendment's requirements of establishing probable cause and particularly describing the items to be seized in affidavits which support warrants to search and seize computers and computer-processed information. Part I concluded with the particular description of computer equipment. Part II continues with a consideration of the particularity requirement as applied to computerized information and a discussion of fourth amendment standards regarding execution of search warrants on computer facilities.

Describing Computer-Processed Information

Officers seeking to describe particularly information that has been processed by a computer face two significant obstacles. The first obstacle is explaining in an affidavit for a search warrant that records being sought may be contained in sophisticated technological equipment. For example, digital computer systems store and process information in the form of electronic impulses.[47] For these purposes, this information is encoded into the binary number system, a "language" comprised only of the characters zero and one.[48] Since, for the officer seeking authority to search and seize and the court reviewing his application, "information (either numbers or text) in binary form is useless unless it can be decoded,"[49] describing computerized information in its encoded form is not meaningful. Fortunately, therefore, for officers drafting search warrant applications, this first obstacle is easily overcome, since officers are not required to confront the technological realities of what occurs when information is transformed into an electronic record. They can simply state that the information sought may be in electronic or written form.

It is the information itself that must be described with particularity, rather than the form in which the information may be found. Thus, if what is sought is "a letter from John Jones to Bill Smith dated November 9, 1985, and concerning the ownership of 200 shares of IBM stock," the letter should be described in those specific terms. The descriptive problem regarding whether the letter should be found in the form of paper with writing on it or magnetic tape electronically inscribed with binary code is solved by using more general terms. Concluding the description of the letter and similar items with the statement that "the records sought are 'written or electronic' " should be sufficient to permit lawful

Special Agent Sauls

seizures of the documents in either form, if the *information* sought is itself (as in the letter example) described with sufficient detail.[50] As previously noted, the storage media (magnetic discs, etc.) which could contain the information in electronic form should also be described as concisely as the facts known will allow.

The more-difficult obstacle then is particularly describing the information which is the object of the search. Information, whether recorded in written or electronic form, is generally collected into documents. Documents are what officers usually describe in warrants authorizing the seizure of information. Because the particularity requirement is strictly applied where documents are concerned,[51] the descriptive task is often a demanding one. Nonetheless, courts reviewing applications for search warrants evaluate the particularity of the description of a document in light of the degree of precision the facts of a case will allow.[52] The officer must be as precise as possible in describing a document, consistent with the facts that are available to him. The detailed description is required whether the information is computerized or not.

For example, in the *United States v. Timpani,*[53] a search warrant authorizing the seizure of "... any and all records relating to extortionate credit transactions (loansharking) ..."[54] was challenged as being insufficiently particular. In reviewing the warrant, the court noted that the warrant included a lengthy list of types of records (including "... lists of loan customers, loan accounts, telephone numbers, address books ..."[55]) and that the warrant "... provide[d] a standard for segregating the 'innocent' from the 'culpable' in the form of requiring a connection with [the] specific, identifiable crime [of loansharking]."[56] Approving the particularity of the warrant, the court stated, "... most important, it is difficult to see how the search warrant could have been made more precise."[57]

The task of the officer is to describe the information sought with sufficient particularity to avoid a forbidden "general" warrant. If he is aware of specific documents sought, he should designate them by type (letter, memo, etc.), date, subject, author, addressee, providing as much detail as possible. The earlier description of the letter regarding ownership of IBM stock is an example of this technique.

Where only the general nature of the information sought is known, a highly detailed description is impossible. In such cases, officers must use great care to give a description that includes the information sought but limits the search as narrowly as possible. This is accomplished by use of a general description that is qualified by some standard that will enable the executing officers to separate the information to be seized from innocent information that may also be present. This qualifying standard is known as a limiting phrase.

The limiting phrase must be crafted based on the facts establishing probable cause to search. If the facts establish that the information sought comes from a particular time period, the phrase should limit the warrant to information of that time period. If the information sought is known to have been produced by a particular individual, the phrase should limit the description to material authored by that person. If the phrase combines several such factors, it is even more ef-

"... it is often desirable to incorporate the affidavit into the warrant by appropriate language and to attach the affidavit to the warrant."

fective. As in *United States* v. *Timpani*, the phrase may restrict the description to particular criminal conduct. In that case, the limiting phrase was "... records relating to extortionate credit transactions (loansharking)...."[58] It is most important that the limiting phrase restrict the scope of the search so that it remains within the bounds of the probable cause set out in the affidavit. The warrant may not authorize the seizure of items for which probable cause to search has not been established. In upholding the description of items in the warrant in the *Timpani* case, the court noted that "[e]ach item is plausibly related to the crime—loansharking or gambling—that is specifically set out [in the affidavit]."[59] The description, even though the items to be seized were described in generic terms, did not exceed the probable cause because of the use of an appropriately narrow limiting phrase.

In *Application of Lafayette Academy, Inc.*,[60] a case involving a search for computerized information, the information sought was described in general terms with the inclusion of a limiting phrase, but the phrase was not made sufficiently narrow. Lafayette Academy, Inc., was being investigated for fraudulent activities in connection with their participation in the Federally Insured Student Loan Program (FISLP). The warrant authorized seizure of "books, papers, rosters of students, letters, correspondence, documents, memoranda, contracts, agreements, ledgers, worksheets, books of account, student files, file jackets and contents, computer tapes/discs, computer operation manuals, computer tape logs, computer tape layouts, computer tape printouts, Office of Education (HEW) documents and forms ... which constitute evidence of the commission of violations of the laws of the United States, that is violations of 18 U.S.C. Sections 286, 287, 371, 1001, and 1014...."[61] The probable cause in this case related to frauds pertaining to the FISLP. The court, in invalidating the search warrant, criticized the limiting phrase because it allowed seizure of items for crimes beyond the scope of the probable cause established. The court stated, "[t]he warrant is framed to allow seizure of most every sort of book or paper at the described premises, limited only by the qualification that the seized item by evidence of violations of 'the laws of the United States, that is violations of 18 U.S.C. Sections 286, 287, 371, 1001, and 1014.' The cited statutes, however, penalize a very wide range of frauds and conspiracies. They are not limited to frauds pertaining to FISLP, and there is no indication from the warrant that the violations of federal law as to which evidence is being sought stem only or indeed at all from Lafayette's participation in FISLP. Thus, the warrant purports to authorize not just a search and seizure of FISLP-related records as the government contends but a general rummaging for evidence of any type of federal conspiracy or fraud."[62] The court continued that "... the precise nature of the fraud and conspiracy offenses for evidence of which the search was authorized—fraud and conspiracy in the FISLP—needed to be stated in order to delimit the broad categories of documentary material and thus meet the particularity requirement...."[63]

Occasionally, the nature of the probable cause will allow a very broad description. In *United States* v. *Brien*,[64] a search warrant was issued for the premises of Lloyd, Carr & Company, a commodities brokerage firm. The warrant authorized the seizure of "Lloyd, Carr's bank statements, cash receipt books, option purchase records, sales material distributed to customers, employee compensation records, customer account records, sales training material and customer lists."[65] Noting that the described items constituted most of the business records of the company, the court nonetheless upheld the warrant's particularity, since the affidavit's facts "... warranted a strong belief that Lloyd, Carr's operation was, solely and entirely, a scheme to defraud...."[66] Since the facts in the affidavit established that *all* of the records of the business probably were evidence of the crime being investigated, the scope of the description was sufficiently particular. In upholding the validity of the warrant, the court stated, "... where there is probable cause to find that there exists a pervasive scheme to defraud, all the business records of an enterprise may be seized, if they are, as here, accurately described so that the executing officers have no need to exercise their own judgment as to what should be seized."[67]

The items to be seized should be described as precisely as the facts will allow, and items for which probable cause to search has not been established should not be included. An innovative means of limiting the items described to those for which probable cause to search has been established is found in the case *In Re Search Warrant Dated July 4, 1977, Etc.*[68] Here, the scope of the description of items to be seized was limited to documents related to "the crimes ... which facts recited in the accompanying affidavit make out. . . ."[69] The court, in upholding the warrant, noted with approval the limiting phrase. As was done in this case, it is often desirable to incorporate the affidavit into the warrant by appropriate language and to attach the affidavit to the warrant. Officers preparing search warrants for computerized information should consider the use of this procedure.

EXECUTING THE SEARCH WARRANT

The protection of the fourth amendment does not end when an officer obtains a valid search warrant. The right of citizens to be free of "unreasonable searches and seizures" extends to the manner in which a search warrant is executed.[70] For the search to be lawful, it must be done in a reasonable manner.[71] The U.S. Supreme Court has recognized the flexibility of this standard, stating "[t]here is no formula for the determination of reasonableness. Each case is to be decided on its own facts and circumstances."[72] Perhaps because of the vagueness of this standard, certain statutes also regulate the action of officers executing search warrants.[73]

Generally, officers must give notice of their authority and purpose prior to entering premises to execute a search warrant.[74] Once inside, the actions taken to secure control of the premises and prevent destruction of evidence must be reasonable under the circumstances.[75] The search itself must be performed within the scope of the warrant,[76] and care must be taken to cause no unnecessary damage during the search.[77] Finally, only items named in the search warrant may be seized, subject to a limited exception, the "plain view" doctrine.[78] These aspects of execution will be examined as they relate to computer searches.

The Announcement Requirement

To protect the privacy interests of citizens and the safety of both occupants of premises and the officers making entry to execute a warrant, officers are generally required to knock and announce their identity and purpose before forcibly entering premises to perform a search.[79] This requirement is subject to certain exceptions which allow entry without notice under some circumstances.[80] The exceptions include situations where the announcement would jeopardize the safety of the officers or others and where it would likely result in the destruction of evidence.[81] This latter exception, destruction of evidence, becomes relevant in searching for computer-processed information.

Due to the manner in which it is processed and stored, computerized information is easily and quickly destroyed. As previously discussed, information is encoded into the binary number system for processing purposes. This encoded information may then be stored in the computer's internal memory or on magnetic or other external storage media.[82] Generally, the internal memory is used to store data that must be immediately accessible to perform the tasks for which the computer is presently being used. Because any power interruption will result in the loss of information stored in the computer's internal memory, important information is usually duplicated and stored on an external storage device, such as a magnetic tape or disc. Information that is in the computer's internal memory that has not been "backed-up" by more permanent external storage may be destroyed in the instant it takes to flip a power interruption switch. Depending on the memory capacity of the computer, a considerable amount of information may be lost in this manner. Personal computers with internal storage capacities equal to 200 double-spaced typewritten pages are now common, and larger computers have much greater internal memory capacity. Information stored externally, especially if a magnetic storage medium is used, is likewise subject to rapid destruction. A device known as a degausser can instantly erase millions of data characters from a tape or disc.[83]

A pre-entry announcement is not required where officers know facts that cause them to reasonably believe that the making of an announcement will result in the destruction of evidence.[84] The ease and rapidity of destruction of the evidence sought is a factor courts will consider in determining whether a "no-knock" entry was reasonable.[85] Consequently, where officers know prior to execution of a warrant that information sought has been stored by computer and that persons with a motive to destroy the information are likely present at the place to be searched, an unannounced entry is likely reasonable.[86]

The announcement requirement is less stringently applied where warrants are executed against business premises.[87] Since computers are often located at businesses, this fact should also be considered in determining whether a pre-entry announcement is required.

Another alternative to the announced entry may exist when searching for processed data. Where computerized information is the target of the search, technology may allow the execution of the search without any physical entry. If the computer is one where access is available to persons with remote terminals via telephone lines, it is possible that the information sought

"Investigators executing a search warrant must use care to insure that the search is restricted to places where the items to be seized may be concealed."

may be obtained by an expert who "breaks in" the system remotely, using his own terminal and telephone.[88] Also, the electronic operations of some computer systems may be observed from as far away as one-half mile if the proper equipment is used.[89] Presumably, where no physical entry takes place, no announcement is required. Such searches do, however, fall within the application of the fourth amendment and its attendant requirements,[90] and in most cases, a search warrant will be required for performing such a search.[91] Additionally, some sort of notice to the operator of the computer that a search has been performed is likely required.[92]

Controlling The Premises

The U.S. Supreme Court has noted the utility of officers who are executing a search warrant exercising "unquestioned command of the situation."[93] Consequently, officers executing a search warrant have the power to control access to the premises being searched and to control the movements of persons present to facilitate the search and to prevent the removal or destruction of evidence. Due to the previously noted ease of destruction of computerized information and the size and complexity of some computer facilities, the need likely will exist to quickly take control of a computer facility being searched. Actions taken to control the premises and prevent the destruction of evidence will be evaluated based upon the reasonableness of the actions under the circumstances.

An example of this analysis is found in *United States* v. *Offices Known as 50 State Distrib.*,[94] where a search warrant was executed on a building housing a large "boiler room" sales operation that was engaged in fraud and misrepresentation in selling its promotional merchandise. About 50 local and Federal officers entered the premises to perform the search. At least 300 employees were present. The warrant authorized the seizure of almost all business records present. Upon entry, the officers required all persons present to remain at desks or in their assigned work areas. No one was permitted to go to the restroom without an escort. The court, in upholding the validity of the execution of the warrant, noted, "[t]he breadth of the warrant . . . rendered the execution of the warrant a most difficult task at best. Some control over the 300 . . . employees was necessary for an orderly search."[95]

Searching Within The Scope Of The Warrant

The requirement of a particular description of the items to be seized limits the allowable scope of a search in two ways. First, it restricts the places where an officer may look. An officer may look only in places where the item sought might reasonably be concealed.[96] Second, it restricts the time of execution. An officer may only search under the authority of the warrant until all named items have been located or seized or until all possible places of concealment have been explored.[97] Failure to comply with either of these restrictions can result in an illegal, general search that violates the fourth amendment.

Investigators executing a search warrant must use care to insure that the search is restricted to places where the items to be seized may be concealed. This can be quite difficult where records are sought and a great number of files are present. Regardless of the difficulty, reasonable steps must be taken to ensure that the search is no broader than authorized by the warrant.

A sensible first step is to make sure that all searching officers are aware of what items are listed in the warrant. In upholding the execution of the warrant in *In Re Search Warrant dated July 4, 1977 Etc.*, the court noted the procedure followed in that case, saying, "[i]n preparation for the search the agents attended several meetings to discuss and familiarize themselves with the areas and documents described in the search warrant and accompanying affidavit. They were instructed to confine themselves to these areas and documents in their search. During the search each agent carried with him a copy of the search warrant and its 'Description of Property' and could contact one of three persons on the scene who carried the supporting affidavit."[98] In upholding a warrant execution in *United States* v. *Slocum*,[99] the court also noted a pre-execution meeting.[100] Familiarizing the search team with the language of the warrant will increase the likelihood that a search will be performed in a manner a court will deem reasonable.

Once on the scene, the officers should continue to use care to restrict the search to the items listed in the warrant. A problem that frequently arises is that of sorting the items subject to seizure from those that are innocently possessed. This problem is especially common in cases where business records are the target of the search. In all cases, officers must restrict their search to places where the items named in the warrant are likely to be found and to limit the examination of innocent items to an extent no greater than that necessary to determine whether the item being examined is one of the items named in the warrant.[101] Again, the yardstick is reasonableness.

In many cases, a simple sorting process will be upheld as reasonable.[102] In *United States* v. *Slocum*, a warrant authorizing the seizure of business records related to illegal importation of tropical birds was executed. The U.S. Court of Appeals for the 11th Circuit described the execution process as follows: "... [T]he offices were a shambles and ... there was no apparent filing system; it was therefore concluded that it would be necessary to view each document to determine if it fell within the warrant. When an agent discovered a document that he or she believed covered by the warrant, the document was taken to one of four supervising agents who made the ultimate decision whether to seize the document."[103] The court approved use of "a common sense standard"[104] in evaluating the reasonableness of the search method and noted that where a warrant authorizes the seizure of documents, "some perusal, generally fairly brief, was necessary in order for police to perceive the relevance of the documents to the crime."[105] The court cautioned, however, that "the perusal must cease at the point of which the warrant's inapplicability to each document is clear."[106]

In Re Search Warrant Dated July 4, 1977, Etc. also concerned the execution of a search warrant requiring the examination of a multitude of documents. Fifteen agents conducted a search which lasted 9½ hours, during which they examined the contents of 93 file drawers, 14 desks, 3 bookshelves, and numerous boxes and piles of loose documents. The court described a systematic search where each document encountered was evaluated by search personnel to determine whether it fell within the description of items to be seized contained in the warrant. The U.S. Circuit Court of Appeals for the District of Columbia Circuit, in upholding the reasonableness of the search, noted that nothing in the record indicated a "general rummaging operation"[107] had taken place and that the agents involved in the search had been "... extensively briefed, instructed and supervised."[108]

Search for documents stored in electronic form by a computer will require use of the computer to view documents on a display screen or to print them by means of a printer. A sorting process similar to that employed in a search for "ink on paper" documents would seem reasonable under the circumstances. Such a sorting process was employed in *United States* v. *Harvey*.[109] There, an agent seeking, pursuant to a search warrant, an electronic device that produced telephone switching tones discovered some cassette audio tapes. He played about 12 of the tapes on a cassette player on the scene and determined that 2 contained recorded telephone switching tones. These tapes were seized. The U.S. Court of Appeals for the Eighth Circuit held these tapes were "properly seized as within the limitations of the warrant."[110] Use of computer equipment to examine computerized records should likewise be reasonable, since the records are otherwise incomprehensible to the searchers. Obviously, certain operational knowledge regarding the computer equipment will be required to perform this type of search. Under these circumstances, expert assistance during the search may be essential.[111]

The sorting process, performed at the scene of the search, serves to prevent the seizure, and thus the denial of access and use by the owner, of innocent records. The mere fact that the sorting process is time consuming will not make a wholesale seizure of records reasonable. Obviously, where a valid warrant authorizes the seizure of all business records, no sorting is required other than the elimination of nonbusiness records.[112] Otherwise, the reasonableness standard may require an arduous sorting process. Thus, where agents seized 11 cardboard boxes of computer printouts which were bound in 2000-page volumes, 34 file drawers of vouchers bound in 2000-page volumes, and 17 drawers of cancelled checks and hauled these records to another location where they sifted through them to extract the relevant documents (that were described in the search warrant) as a consequence of their determination that sorting at the site of the search would take a very long time, the seizure was held to be an unreasonable one.[113] Sorting at the scene of the search is generally required.

Certain characteristics of computerized recordkeeping may result in different treatment for computerized records.[114] First, the storage capacity of some computerized systems is such that review of all documents stored in the system could take a very long time. Second, unlike with paper files, the number of investigators who may assist in the search is limited by the number of computer terminals available for document display. Finally, where the records are stored magnetically, they may be quickly duplicated in their computerized form. Based on these considerations, it may be reasonable in some cases to duplicate the records quickly, leave copies for the use of the owner of the records, and seize the original records for later examination.

The likely legal concern in this situation is that the innocent documents included in the records would be available for unrestrained viewing by investigators resulting in a postponed "general search." A potential control for this problem would be continuing judicial supervision of the sorting process.[115]

Finally, when all items named in a warrant have been located and seized, the warrant provides no authority to continue the search.[116] Absent other legal justification, the search must terminate.

Avoiding Damage During a Search

A further requirement for the reasonable execution of a warrant is that the officers take care to avoid unnecessary damage to the property being searched and seized. Since computers are complex and fragile,[117] considerable care must be exercised where one is seized. Expert assistance may be necessary to ensure a damage-free seizure.

The "Plain View" Doctrine

As previously noted, an officer executing a search warrant will frequently need to sort through information to determine what portion of it may be seized pursuant to the warrant. If, during the course of the process, the allowed limited perusal of information is sufficient to cause the officer to conclude that the information is probable evidence of a crime, he is not required to leave the document behind, even through it is not described in the warrant. He may seize it under the "plain view" exception to the warrant requirement provided that he is lawfully present (searching reasonably within the scope of the warrant), it is readily apparent that the document is evidence, and the discovery of the document is "inadvertent" (that is, the officer did not possess probable cause to search for the document prior to beginning the search he is presently engaged in).[118]

CONCLUSION

Since judicial guidance is still limited in the area, investigators seeking and executing search warrants authorizing the seizure of computers and computerized information are on untested ground. However, the legal standard by which such searches and seizures will be measured is the same as is applied to searches less concerned with modern technology. Careful adherence to established fourth amendment principles, coupled with the use of expert assistance where needed, will enhance the likelihood of obtaining computerized evidence that is judicially admissible.

FBI

Footnotes

[47] 14 *Am. Jur. Proof of Facts 2d* 183 (1977).

[48] *Id. See also King* v. *State ex rel Murdock Acceptance Corporation*, 222 So.2d 393, 398 (1969).

[49] *Id.* at 184.

[50] *See United States* v. *Truglio*, 731 F.2d 1123 (4th Cir. 1984), *cert. denied*, 83 L.Ed.2d 130 (1984). *See also United States* v. *Offices Known as 50 State Distrib.*, 708 F.2d 1371 (9th Cir. 1983), *cert. denied*, 79 L.Ed.2d 677 (1984).

[51] *See Andresen* v. *Maryland*, 427 U.S. 463 (1976).

[52] For a thorough discussion, see Rissler, "Documentary Search Warrants," *FBI Law Enforcement Bulletin*, vol. 49, No. 7, July 1980, pp. 27–31.

[53] 665 F.2d 1 (1st Cir. 1981).

[54] *Id.* at 4.

[55] *Id.*

[56] *Id.* at 5.

[57] *Id.*

[58] *Id.* at 4.

[59] *Id.* at 5.

[60] 610 F.2d 1 (1st Cir. 1979).

[61] *Id.* at 3.

[62] *Id.*

[63] *Id.* at 3, 4.

[64] 617 F.2d 209 (1st Cir. 1980), *cert. denied*, 446 U.S. 919 (1980).

[65] *Id.* at 306.

[66] *Id.* at 308.

[67] *Id.* at 309, *contra Voss* v. *Bergsgaard*, 774 F.2d 402 (10th Cir. 1985).

[68] 667 F.2d 117 (D.C. Cir. 1981), *cert. denied*, 102 S.Ct. 1971 (1982).

[69] *Id.* at 141.

[70] *Go-Bart Importing Company* v. *United States*, 75 L.Ed. 374 (1931).

[71] *Id.*

[58] *Id.* at 382.

[73] An example is 18 U.S.C. §3109.

[74] *Cf. Ker* v. *California*, 374 U.S. 23 (1963) (concerning an entry to arrest). For a thorough discussion, see 2 W. LaFave, *Search and Seizure*, 122–140 (1978).

[75] *See United States* v. *Offices Known as 50 State Distrib.*, *supra* note 50.

[76] *Cf. Harris* v. *United States*, 331 U.S. 145 (1947). For a thorough discussion, see 2 W. LaFave, *Search and Seizure* 160–163 (1978).

[77] See 2 W. LaFave, *Search and Seizure* 161 (1978).

[78] *See Coolidge* v. *New Hampshire*, 403 U.S. 443 (1971). For a thorough discussion, see 2 W. LaFave, *Search and Seizure* 163–184 (1978).

[79] *Supra* note 74.

[80] *Id.*

[81] *Id.*

[82] See generally 16 *Am Jur. Proof of Facts* 285–291 (1965).

[83] D. Parker, *Fighting Computer Crime*, page 42 (Charles Scribner's Sons, 1983).

[84] *Supra* note 74.

[85] *Id.*

[86] *Id.*

[87] *See United States* v. *Francis*, 646 F.2d 251, 258 (6th Cir. 1981), *cert. denied*, 70 L.Ed.2d 616 (1981).

[88] For a discussion of the ease with which an expert can gain access to a supposedly secure system, see T. Whiteside, *Computer Capers*, pp. 117–121 (1978).

[89] T. Schabeck, *Computer Crime Investigation Manual*, section 9.2.9 (Assets Protection, 1980).

[90] *See Katz* v. *United States*, 389 U.S. 347 (1967).

[91] *Id.*.

[92] *See Berger* v. *New York*, 388 U.S. 41 (1967).

[93] *Michigan* v. *Summers*, 452 U.S. 692, 703 (1981), citing 2 W. LaFave, *Search and Seizure* 150–151 (1978).

[94] *See United States* v. *Offices Known as 50 State Distrib.*, *supra* note 50.

[95] *Id.* at 1376.

[96] *Supra* note 76.

[97] *Id.*

[98] *Supra* note 68, at 123.

[99] 708 F.2d 587 (11th Cir. 1983).

[100] *Id.* at 601.

[101] See generally 2 W. LaFave, *Search and Seizure* 173–178 (1978)

[102] *See, e.g., In Re Search Warrant Dated July 4, 1977, Etc.*, *supra* note 68. *See also United States* v. *Tamura*, 694 F.2d 591 (9th Cir. 1982).

[103] 708 F.2d 587, 602 (11th Cir. 1983).

[104] *Id.* at 604.

[105] *Id.*

[106] *Id.*

[107] *Supra* note 68, at 124.

[108] *Id.*

[109] *United States* v. *Harvey*, 540 F.2d 1345 (8th Cir. 1976).

[110] *Id.* at 1354.

[111] An expert accompanied officers executing the search warrant in *Ottensmeyer* v. *Chesapeake & Potomac Telephone Co.*, 756 F.2d 986 (4th Cir. 1985). Another case considering the role of an expert accompanying officers executing a search warrant is *Forro Precision, Inc.* v. *International Business Machines Corp.*, 673 F.2d 1045 (9th Cir. 1982).

[112] *See United States* v. *Brien*, *supra* note 64.

[113] *United States* v. *Tamura*, *supra* note 102.

[114] *See e.g., United States* v. *Tamura*, *supra* note 102.

[115] *Id. See also DeMassa* v. *Nunez*, 747 F.2d 1283 (9th Cir. 1984) (special master appointed to supervise sorting of documents during search of attorney's office).

[116] In addition to suppression of evidence, civil liability may result when a search continues after all items named in warrant have been seized. *See Creamer* v. *Porter*, 754 F.2d 1311 (5th Cir. 1985).

[117] For a discussion of the ways a computer may be physically damaged, see *Fighting Computer Crime*, *supra* note 82, pages 41–42.

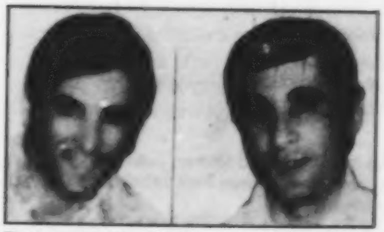
[118] *Supra* note 78.

WANTED BY THE FBI

Notify the FBI

Any person having information which might assist in locating these fugitives is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Because of the time factor in printing the FBI Law Enforcement Bulletin, there is the possibility that these fugitives have already been apprehended. The nearest office of the FBI will have current information on the fugitives' status.



Photographs taken 1973

Right ring fingerprint

Robert Ralph Moret,

also known as Robert Ralph Benliza, Robert Ralph Moret Benliza, Ralph Mantelli, Benliza Moret, Benliza Morett, Bobby Moretti. W; born 12-29-36, Brooklyn, NY (not supported by birth records); 5'8"; 146 lbs; sldr bld; brn hair; brn eyes; ruddy comp; occ-aircraft mechanic; scars and marks: scars on forehead, left wrist, and right bicep, mole on back. Wanted by FBI for INTERSTATE FLIGHT—ARMED ROBBERY.

NCIC Classification:

12590857PM1557090913

Fingerprint Classification:

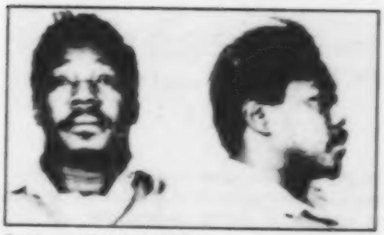
$$\frac{\text{12 M 1 R-r}}{\text{M 5 R 13}} \qquad \text{Ref: } \frac{17}{5}$$

I.O. 4746

FBI No. 157 773 F

Caution

Moret, who has been convicted of armed robbery and murder, is being sought as an escapee from custody. He is reportedly a narcotics addict with suicidal tendencies. Moret should be considered armed and dangerous and an escape risk.



Photographs taken 1972

Right index fingerprint

Jasper Jackson,

also known as James Jackson, James J. Jackson, James Jasper Jackson, James P. Jackson, Jimmy Jackson, Joseph Robinson, James Sutton. N; born 4-22-34, Columbia, SC; 5'7"; 160–180 lbs; med-stocky bld; blk hair (may be wearing Afro wig); brn eyes; drk comp; occ-farmer, gas station attendant, handyman, laborer; scars and marks: scars on bridge of nose, left eyelid, and right forearm; pierced left ear; tattoos: J.J.J. on right forearm and J.J. on left forearm; remarks: ambidextrous. Wanted by FBI for BANK ROBBERY; THEFT FROM INTERSTATE SHIPMENT-ARMED HIJACKING.

NCIC Classification:

PIPIPIPO18PIPOPOPI17

Fingerprint Classification:

$$\frac{\text{I 31 W I IO 18}}{\text{I 28 W OOI}}$$

I.O. 4792

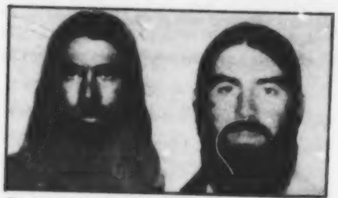
Social Security
Numbers Used: 131-26-7159; 131-26-5971

FBI No. 575 595 B

Caution

Jackson, who is wanted in connection with an armed truck hijacking and abduction and for armed bank robbery, is also being sought by local authorities for the shotgun murder of an associate. Consider Jackson armed and dangerous.

WANTED BY THE FBI



Photographs taken 1974 and 1975

Roy Clinton Sieg,

also known as Roy Clinton Sieb. W; born 1-22-47, Kentfield, CA; 6'; 170 lbs; med bld; brn hair; hzl eyes; med comp; occ-carpenter, chimney sweep, hod carrier; scars and marks: scar left knee; remarks: is a motorcycle enthusiast and reportedly associates with motorcycle gang members; allegedly has suffered shock damage to the left eye, causing poor vision. Wanted by FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:

POPI15PO161713141816

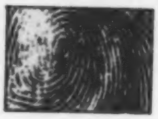
I.O. 4796

Fingerprint Classification:

$$\frac{\text{15 O 25 W IOO 16}}{\text{L 17 U OOO}}$$

Social Security
Numbers Used: 555-72-1263; 555-73-1263

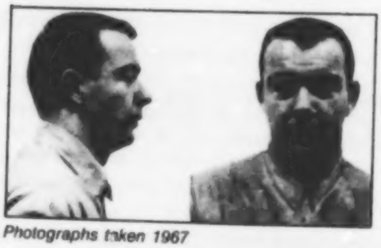
FBI No. 516 057 L10



Right index fingerprint

Caution

Sieg, who reportedly trains attack dogs and who may be armed with an automatic pistol, is wanted for the murder of an individual who after being beaten was shot through the head at point-blank range. Consider Sieg armed and dangerous.



Photographs taken 1967

Richard N. Nickl,

also known as Richard Gleason, Brandon A. Hanck, Jack Johnson, Richard M. Nickel, Richard M. Nickl, Richard Michael Nickl, Richard Nicholas Nickl. W; born 8-6-34, Chicago, IL; 5'9"; 160 lbs; med bld; drk brn hair (balding); brn eyes; med comp; occ-bartender, construction worker, dog kennel operator, dog trainer, laborer, salesman; scars and marks: scar left forehead to scalp, scar over left eyebrow, brown mole right side of face, vaccination scar upper left arm, scar left hand; remarks: may have mustache, beard, or longer hair, may wear wig or have hair transplant, reportedly suffers from arthritis and may walk with a slight limp. Wanted by FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:

PO67161816DIPO171717

I.O. 4770

Fingerprint Classification:

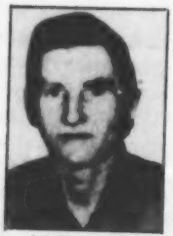
$$\frac{\text{17 O 5 R OOO 16}}{\text{I 19 W OOO}}$$

FBI No. 849 635 A

Right index fingerprint

Caution

Nickl, who is believed to be armed, is being sought as an escapee from custody. At the time of his escape, Nickl was serving a life sentence for the murder of one police officer and the wounding of another. Consider Nickl armed, dangerous, and an escape risk.



Photograph taken unknown

William Thomas Smith,

also known as William Thomas Smith, Jr., William Thomas, William Tee, Smitty. W; born 10-15-24, Cincinnati, OH; 5'4"; 135 lbs; sm bld; gray hair; bl eyes; med comp; occ-bus driver, private security guard, sales, shipping and receiving clerk, vacuum cleaner repairman; remarks: reportedly an avid square dancer and bridge player. Wanted by FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:

PMDOPMPO1713PM161917

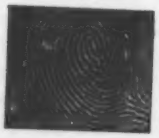
I.O. 4776

Fingerprint Classification:

$$\frac{\text{13 M 25 W OMO 17}}{\text{M 27 W MOO}}$$

Social Security
Number Used: 293-14-2197

FBI No. 846 350 A



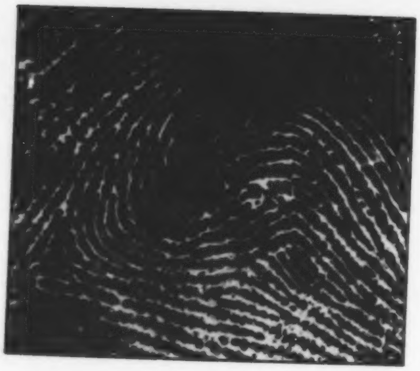
Right ring fingerprint

Caution

Smith, who may be armed with a .32-caliber handgun, is being sought in connection with the abduction-shooting murder of his estranged wife. Consider Smith armed and dangerous.

Referenced Pattern

A combination of a loop appearing over a tented arch formation is classified as an accidental whorl. The pattern presented falls into this category. The tracing is outer. The pattern is referenced to a loop with 12 ridge counts, inasmuch as the tented arch formation is referenced to a plain arch formation. A combination of a loop appearing over a plain arch formation is classified as a loop.



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The Bulletin Notes

Officer Francis A. Mangan, Daly City, CA, Police Department, spotted smoke pouring from an apartment building while on patrol early in the morning of March 21, 1985. Officer Mangan notified the dispatcher of the fire, then entered the building and evacuated 15 residents, crawling on his knees with a wet towel wrapping his face. The *FBI Law Enforcement Bulletin* joins the chief of the Daly City Police in commending Officer Mangan for his lifesaving bravery.

Officer Mangan

55/7

FBI

Law Enforcement Bulletin

July 1986

6610
Norfolk

The Near Future
Implications for Law Enforcement

J1.14/8:

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The responses to an informal survey of 75 executives drawn from the world's largest law enforcement agencies identify major concerns facing their departments within the next 5 years. (See article p. 1.)

FBI
Law Enforcement Bulletin

United States Department of Justice
Federal Bureau of Investigation
Washington, DC 20535

William H. Webster, Director

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The Near Future
Implications for Law Enforcement

"... [the law enforcement] profession has always been highly responsive to criticism, challenge, and opportunity for change."

By
EDWARD J. TULLY
Special Agent
Unit Chief
Education/Communication Arts Unit
FBI Academy
Quantico, VA

Editor's Note: The purpose of this article is not to provide correct answers to potential problems, but rather to pose problems so that they can be discussed and debated within the law enforcement community.

As a profession which necessarily exists and functions at the leading edge of social change, law enforcement has experienced its own considerable turbulence during the past 25 years. This turbulence has been caused by law enforcement's struggle to remain relevant to its basic mission of social control and by its attempts to cope with a changing mandate. To our credit, we have generally met the challenges posed by change, corrected the deficiencies in our organizations, and emerged more able to deal with the hard reality of the street than ever before. Our success stems from the fact that our profession has always been highly responsive to criticism, challenge, and opportunity for change. The current technological revolution has not generally been viewed by law enforcement as a problem, or threat, but rather as an ally to be used as a tool in the race to become more efficient and effective in processing information.

This is not to say that law enforcement does not have significant problems. We will always have problems, the most significant of which in the near future will lie in the area of public financing, narcotics, personnel problems, organizational structure, crime control, and the assimilation of high technology. Such problems can be solved through the continuing process of good planning, training, and intelligent application of resources, but they need to be precisely identified beforehand so the process can be brought to bear on them. In August 1985, I asked the active graduates of the National Executive Institute (NEI) to furnish a list of three problems deemed most critical to their agencies prior to 1990. Virtually all questionnaires were returned. Returns were also received from Canada, the United Kingdom, and Hong Kong. The identified problems will not affect each department in the same way, and in fact, there are a few departments that may not experience any significant problems whatsoever. However, in a general sense, the following areas were of sufficient concern to merit the attention of all law enforcement executives.

Public Financing of Law Enforcement

The role of governmental financing in the United States is undergoing a fundamental change. Since the early 1970's, the body politic has been observed to demand more control over their lives and to ask that governmental institutions be returned from Federal control to State, and ideally, to local control. This political movement is known by many names, but most commonly "New Federalism." New Federalism is the cornerstone of the Reagan administration, which is actively attempting to shift responsibility for the solution of social problems from collective to individual effort. Where possible, responsibility is being shifted from the Federal to the State level, or in some cases, Federal involvement is

READEX FICHE best copy available

"Public financing of law enforcement was the most frequently mentioned, near-term problem ...."

being curtailed completely. For example, the revenue-sharing program appears to be dead at this time. Law enforcement is designated as a local problem needing little, if any, Federal assistance. Finally, in the area of affirmative action, we are witnessing a significant reversal of the Federal role in this program versus what it was in the early 1970's. Additional program shifts spawned by either the New Federalism philosophy or the Federal deficit are under way and will continue for a considerable period of time, depending on the outcome of the 1988 elections and Federal deficit control measures. The change in government philosophy is not the only factor which is causing significant financial problems for major law enforcement agencies.

Public financing of law enforcement was the most frequently mentioned, near-term problem in the recent NEI survey. Other factors that are having an impact on fiscal matters are the declining revenue base in our older industrial cities, the continuing flight of the middle class to the suburbs, the relocation of some industries from our northern industrial areas to the Sun Belt, and finally, ramifications of a "strange," and changing, economy that has brought prosperity to some States and recession, or near depression, to more than one-half the others. The combination of the above factors makes it unlikely that law enforcement budgets will show any substantial increase in the near future. At best, police budgets in the next 5 years will either be reduced or fixed. This is true at the Federal, State, and local level. Expect that "managing with less" will continue to be the operant phrase in law enforcement in the foreseeable future. One exception to this general statement might be found in a few large cities in the United States (Tampa, FL, Atlanta, GA, San Diego, CA), all of which are experiencing rapid economic growth. However, even this bright spot must be tempered by the realization that these rapidly expanding entities will also have expanding law enforcement service needs.

Since the Federal Government is reducing its role as a "bank" to our society, it becomes obvious that the new "bank" necessary to finance social problems will be the State government. It should be recognized that the local property tax in most jurisdictions has been exhausted as a means to increase local government operations. Local government is finding that they have limited means by which they can raise additional revenues. State government, by contrast, is more capable of generating increased revenue. This is accomplished through sales tax, income tax, and business taxes. Thus, the State government will be, in the near-term, the only government entity which will be able to provide supplemental revenues for local governments whose tax base has eroded. Obviously, local law enforcement must tap into State resources in order to maintain local service levels or if it is to provide additional services to constituents. Thus, law enforcement organizations must get involved more directly with State legislatures in order to obtain a large percentage of the available tax dollars. Some law enforcement organizations in the United States have employed lobbyists to present their cases to State legislatures, and the results of their efforts have been quite substantial. The chiefs of police and sheriff's association in the State of Washington has been particularly adept in this lobbying process and is a model for others to follow. It is not unreasonable to expect that every major police department or police association will establish some form of liaison with the legislative branch of State government in the near future.

It is also reasonable to expect that law enforcement will begin to generate its own revenue by charging for some of its traditionally free public services. Several departments currently charge for automobile accident investigations, for response to false alarms, and for a host of other services which, historically, have been provided without charge. This trend is likely to grow, generating as it does additional income.

It is important, in these times of fiscal constraint, that law enforcement commit a significant part of its resources to achieve higher levels of productivity. There are several areas in which this may be considered. The current chiefs of police of Omaha, NE, and Los Angeles, CA, both make strong arguments that law enforcement break out of its traditional role in reacting to problems and become more proactive. One proactive technique is to be found in the development of additional collaborative activities with other law enforcement organizations in order to achieve better crime control. While some past collaborative activities have not proven to be successful, the majority have been beneficial and thus deserve the chief executive's commitment. Simply put, the problem of crime in the United States is so great that no single agency can hope to be effective by just relying on its own resources.

A new area of collaboration which needs further exploration is between law enforcement and the private sector. Law enforcement executives must insist in no uncertain terms that citizens, institutions, and organizations within their community shoulder greater responsibility in assisting law enforcement in crime control. Some excellent examples are presently found in the collaborative activities known as Neighborhood Watch, Mothers Against Drunk Drivers, and Court Watch. These are laudable examples of citizen involvement in projects to achieve a more stable society. It has become clear that our profession, while mandated to control crime, cannot do it without substantial community involvement and support. Thus, we need to commit more law enforcement resources to public education and to the development of collaborative activities with the private sector. Such measures take a proactive stance.

The chief of police in Omaha notes that in the past, law enforcement has tried to control the supply of narcotics by targeting the distributor and the users. The results, while impressive, have not slacked either the supply or the demand. He, therefore, suggests that law enforcement now devote some resources to the demand for narcotics in an attempt to reduce this aspect of the problem. While all will agree that law enforcement alone has little ability to reduce demand, it is nonetheless an area in which successful collaborative activities can be designed in cooperation with local industries, churches, and schools. These new programs may be successful in reducing the demand side of the problem. Considering the extent of the problem, it is worth a try.

In conclusion, it is safe to assume that fiscal problems will continue to be a source of management concern. Each major department will have a slightly different problem. At this time it is difficult, if not impossible, to predict which jurisdictions will have good, or for that matter, difficult economic times. In either case, law enforcement agencies should expect difficulty in obtaining additional revenues and should take appropriate steps to either increase productivity or secure new sources of revenue.

The Changing Pattern of Crime

Three important factors contribute to the changing nature of crime in the Western World—(1) the advent of high technology in our society, (2) the distribution and use of narcotics, and (3) a declining population in the 14–25 age bracket. While the chief of police in Minneapolis, MN, listed street people, drugs, the urban poor and their potential for social disorder as his three concerns, the police chief in Calgary, Alberta, Canada, indicated his concerns were with the growing problem of the drug scene, outlaw motorcycle gangs, and ethnic gang violence. Finally, the commissioner of the Royal Canadian Mounted Police (RCMP) listed terrorism, drug enforcement, and white-collar crime as his chief concerns in Canada.

The concerns of these professionals are justified as the nature of crime is rapidly changing, forcing a new law enforcement response. The new crimes of data manipulation, software piracy, industrial espionage, bank card counterfeiting, and embezzlement by computer are clearly not variations of older crimes that will peak in popularity and then fade away. They will remain with us for the foreseeable future—paradoxically, what probably will fade away are the traditional crimes of armed robbery and perhaps burglary. The new crimes spawned by high technology will require the development of new investigative techniques, specialized training for law enforcement investigators, and finally, the employment of individuals with specialized, highly technological backgrounds. Taken together, they threaten to be the Achilles heel of our society, at least until better encryption devices are developed which will provide adequate security to electronic transmissions. Until then, the specter of a Three-Mile Island in the banking industry must cause all of us serious concern.

The abuse of narcotics in the United States seems to be spreading in numbers and throughout the various social classes. Narcotics violations continue to take an ever-increasing percentage of our time and resources. While it is critically important that we attempt to control the use of narcotics in the United States, we should recognize that law enforcement cannot, by itself, control the problem. Collaborative activities with educational and religious institutions, with private industry, and with government are necessary to achieve better control. The most that law enforcement can be expected to do in this regard is to continue narcotics enforcement at current levels and to provide leadership to the community. As has been stated before, the real solution to the narcotics problem, worldwide, is for individuals to stop demanding a supply. Like alcohol abuse, it is not a problem that will go away in the near future; in all probability, in fact, it will get worse before it gets better. Besides the continuing harm of widespread narcotics use, we must deal with the violence inherent in narcotics distribution schemes and the corrupting influence that narcotics has on our own law enforcement personnel.

"... our profession, while mandated to control crime, cannot do it without substantial community involvement and support."

Finally, the nature of crime in the United States has been changed by a declining birthrate. The large number of crime-prone youth (14–25) has significantly declined in recent years as the Baby Boom generation of the 1950's moved into middle age. As a result, crime rates in the United States have begun to drop, although crimes may be increasing in violence. The present generation of crime-prone youth, however, often derives from a relatively poor immigrant population. This population tends to settle in major cities in the United States and often finds itself living contiguous to older, also poor, people who, in their declining years, cannot afford to leave their neighborhoods. Thus, the young criminals prey on the elderly and flourish. The growing number of young persons in their crime-prone years in our metropolitan areas virtually ensures that high crime rates will continue in these areas. One side effect of this situation is that the public at large, reading the press accounts of horrifying urban crimes, generates an exaggerated fear of crime. This tends to distort reality, and thereafter, places unreasonable pressures on suburban departments to protect their populations from criminal forces which are generally confined to the city. Finally, the continuing flow of migrants to the United States in general, and our large cities in particular, will continue to bring new forms of organized crime, ethnic gang violence, and ethnic victims. While this is not a new phenomenon in American history, it certainly is a significant factor in the continuing problems of policing in a metropolitan area. In short, the demand for police services in the metropolitan areas will continue to escalate in the next 5 years, while the tax base to support such service continues to decline.

Alternative To Force

With the introduction of hostage negotiations as an operational tool, law enforcement took a significant step in the evolutionary process of abandoning the use of deadly force to police civilian populations. While it may be 100 years before law enforcement abandons its reliance on deadly force, the evolutionary process to this end continues. The development and use of nonlethal weaponry offers some hope in this regard. It would be wise to examine each nonlethal product for its application to policing. If found to have application, we must train and certify our officers in its use, both to protect them and to avoid the problem of civil liability. We all know, and regret, the necessity of using deadly weapons in law enforcement. We must, as a profession, develop alternative methods as quickly as possible without endangering the lives of any officers. This is a demanding assignment and one that needs our full attention. The Indianapolis, IN, police chief listed deadly force as one of his concerns. In this litigious society, his concern is understandable.

Organizational Structure

Both the chief in Edmonton, Alberta, Canada, and the director general, Quebec Police Force, expressed concerns about future organizational structure. The director general called attention to the need to remodel the police departments so they could maintain acceptable service with only moderate increase in cost; the Edmonton chief of police, by contrast, called for adapting the organization to changing operational and environmental conditions and urged that traditional police bureaucracy be amended. Both problems result from trying to force the circle of late 20th century communication networks into the pyramid of centuries-old bureaucratic structure. Problems with data storage, sharing of information, and access proliferate because the necessary connections for information flow simply don't exist. In other words, communications within the pyramid are often broken and frustrated by the levels of the bureaucracy. Both concerns are spawned by the fact that the process of communication has become extraordinarily rapid in our society. This causes significant problems within all organizations, but most importantly, it causes significant dysfunction in the pyramid structure. All types of communication within the pyramid often break down and are frustrated by superfluous levels of bureaucracy. If upward communication has become a known problem within an organization, we should consider changing our organization structure to a more horizontal design to facilitate the flow of information and ideas. Additionally, it should be expected that freedom of information problems and a citizen's right to privacy will be issues within the next few years. Rightfully so! Citizens are becoming concerned about the amount of information, or misinformation, that is being accumulated in various data banks regarding their personal lives. They will need access to this information and they will also need protection from unauthorized persons obtaining this information about them. Both problems are future legitimate concerns for the police executive.

High Technology

In the NEI survey, a large number of executives expressed their thoughts about the introduction of high technology in the law enforcement environment. The police chief of Corpus

Christi, TX, expressed concern about the integration of mobile terminals with computer-assisted dispatching, while the sheriff of Harris County, TX, was enthused about the development and implementation of computer-assisted information systems for countywide criminal justice application. The chief executive of the Ohio State Highway Patrol called for the expansion of the present 911 system into a nationwide emergency number, and the Baltimore County police chief was interested in how to handle and make use of technology in the mainstream of police operations and decisionmaking. Finally, the head of the Montana Highway Patrol expressed some frustration about not being able to afford modern communications during the information age.

All of the above comments point to the fact that in the recent past, there has been a rush to introduce various forms of high technology into the law enforcement workplace. The results have been mixed. It has clearly been of assistance in improving management controls, and in some cases, it has been used effectively to direct manpower utilization. Some success has been seen in using microcomputers in the resolution of various crimes. However, its full potential has not yet been realized. The problem does not lie with the machinery in and of itself, but rather with the human factor, that is, in the development of software that allows law enforcement problem areas to be addressed by high technology. Such software programs are difficult to obtain, and most are in the experimental stage. Moreover, the individual operators of our high technology equipment have yet to demonstrate a complete acceptance of the technology, and thus, its full potential has yet to be realized. John Naisbitt's caution that high technology must be accompanied by what he called "high touch" bears further scrutiny so as to ensure that the human element does not reject the new machines as a threat to themselves or their jobs. It is clear that the machines of high technology are not a management or investigative tool which should be discarded or abandoned, but on the other hand, organizations should not rush to purchase the latest equipment without due investigation and consideration of its cost effectiveness. There are many examples of high technology benefit to law enforcement. Programs such as the National Crime Information Center (NCIC), computer-assisted dispatch, and the new Violent Crime Apprehension Program at the FBI Academy are excellent examples of how the computer can be made to work for the betterment of law enforcement. The most significant problem with high technology is its cost and application to our work. Both need to be considered very carefully so that the acquisition of high technology does not become an end in and of itself. To purchase high technology just for public relations purposes is unwise and exceedingly expensive. It is far better to wait until software programs are available, and if possible, establish some means within law enforcement to share software programs which have been demonstrated to be effective.

Training

In times of tight budgets, one of the first programs to suffer within any law enforcement organization is training. Although regrettable, this is historically correct. Enlightened executives would not allow this to happen. Training is essential to any organization involved in the process of change. As we move to ever-higher levels of professionalism and faster rates of change, executives will find that the best antidote to the stress factors induced within the organization is the process of training. It is recognized that training is expensive in terms of time and money; however, an experienced trainer knows that most of the training required in law enforcement can be offered at a local level using local resources. Within each metropolitan area in the United States, there are more than sufficient resources to enlist in the design, development, and implementation of quality training programs, if only the department will make the commitment to that objective. Therefore, in a period of fiscal constraint, it is not necessary that training be cut; in fact, with proper direction the process of training can be, and should be, expanded.

The sheriff of Los Angeles County indicated that the development of human resources was his primary concern. He recognized that ethical conduct, labor relations, and employee retention were all factors within his community directly affected by the process of training. The police chief in Birmingham, AL, called for meaningful training that would transcend the simple mechanics of policing and develop some that addresses complex problems that we do have and will face in law enforcement. Both of these executives have placed their fingers on one solution to the problems faced in law enforcement in the near future.

"... leadership implies that the vision of the leader will be both shared and implemented by all employees."

proven to be so successful and rewarding. Working together, this criminal problem can be successfully thwarted, and perhaps, if political solutions are found, it may even be brought under control.

People

Although we live in times of what seems to be perpetual crises, one observes that our social fabric displays an ever-increasing dominant thread. The thread is people, or perhaps more accurately, the human mind. The human factor has become our most important resource in this gradually emerging new world of ideas. Throughout history, organizations which existed to deal with ideas recognized that their important institutional resource was people. Thus, the church, education, and to a lesser extent, business, tried to recruit and develop highly qualified individuals to serve the organization. Thereafter, the primary purpose of the institution was to supply these talented people with the necessary environment and resources to do the job.

As we enter our new age, we should not forget that others have been there before. The Jesuits, Oxford University, and the Hudson Bay Company are a few organizations which offer examples of how we might cope successfully with our newly emerging world, inasmuch as they successfully existed and prospered in similar emerging worlds. We should also be mindful that the challenges inherent in crises have been, and will be, met by people, not high-tech machines, or money, or blind luck. Our challenge is to create a management atmosphere which fosters the growth of people and offers them the freedom to fully apply their mental talents to the problems at hand.

It is not easy for men or organizations to change. While it is certainly possible to change, we seem to be able to do so only in proportion to our self-confidence and courage to let go of our present comfortable perception of reality. Many of our problems today are caused by our inability to view reality in any other way than what we have for the past several hundred years. Perhaps, the time has come to let go of the old paradigm and fashion a new one.

Conclusion

"The only thing permanent is change." Although Heraclitus' observation was correct, not even he could have anticipated the rate of change we, in the Western World, have experienced since the beginning of World War II. Heraclitus' world (500 B.C.) was relatively static; ours is not. I would argue that many of us have become addicted to rapid change in our lives and become bored, frustrated, and easily disenchanted in its absence. Many seem to crave the shock, or emotion, of political events, new fads, television stars, or even "bad news." We are conditioned to change for our own sake. This is disturbing.

Societies, organizations, and individuals need a degree of constancy. It seems as if it used to be that social rules and values offered shelter, a sanctuary if you wish, against the constant stress of living. But while all generations challenge accepted truth, most fail and reluctantly accept the dictums of the establishment. The past two generations, nurtured in this age of rapid communications, have not. Traditional values have been challenged, and the debate over their worth continues. Some values have withstood the challenge and remain in force. Others have been abandoned or modified. Change ensures that this testing will continue until necessary self-discipline is restored.

The good news is that it seems as if we have reached a point of restoration. Admittedly, it is a sense, or a belief, but the currents seem to be in the direction of conservatism, or perhaps stoicism. A consensus seems to be developing that our appetites must be curbed. Our collective ability to rationalize our every action appears to have peaked. The necessity to return to a life governed by a central code of values is becoming intellectually fashionable. Experience has always dictated that nations, organizations, and men do not exist well in an unordered political, social, economic, or intellectual world. What is amusing, perhaps, is that any examination of enduring states, great men, or organizations demonstrates that proper conduct for all needs no new discovery to make it relevant, or valid, to our world. Admittedly, we may have to abandon our obscene pursuit of materialism, some of our pragmatism, and a great deal of our rationalizations to achieve an objective of a more constant world or peaceful personal life.

In terms of providing executive leadership in the years ahead, I think the translation of our current, and anticipated, condition simply means emphasizing the virtue of self-discipline. We must learn to manage ourselves before we attempt to lead others. In Warren Bennis's new book "Leaders," the issue of power and leadership are discussed in terms of our emerging age. He defines power as the basic energy to initiate and sustain action translating intention into reality. Power, however, without vision on the part of the leader is a waste. Bennis states it well when he says, "Vision is the commodity of leaders, and power is their currency." A critical aspect of vision is to recognize the necessity for any law enforcement organization to insist on the ethical conduct of all of its members. This, of course, implies that the department rules and regulations be administered in a just and fair manner. The wise leader is one who realizes and accepts the responsibility to set the tone of an organization and to preserve, where appropriate, its values, rituals, and traditions. Finally, leadership implies that the vision of the leader will be both shared and implemented by all employees.

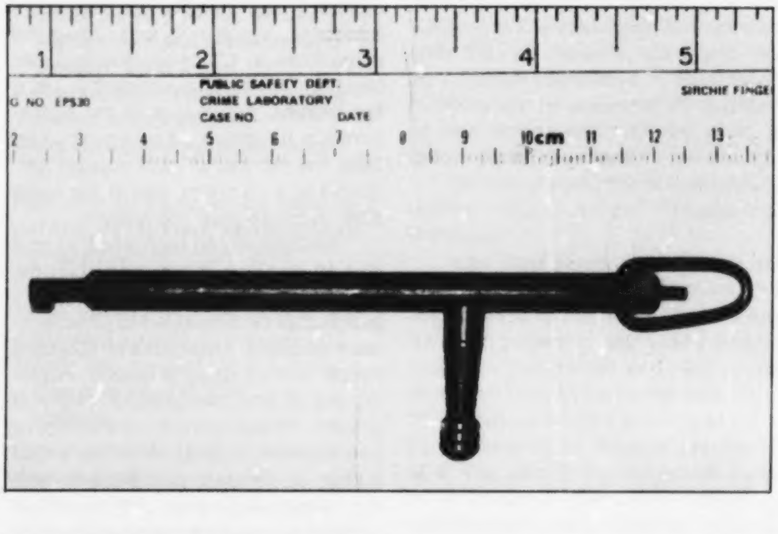
It is ironic that in seeking answers for our current and future problems, we find our best guidance in the past rather than some newly discovered "truth." Great thinkers of history have given us ample guidance on the human condition. The fact that many of us choose to ignore their advice does not diminish its quality, rather it reflects our arrogance. But we must keep in mind that we are human, not divine. Our simple mission in life is to try and improve the conditions which we find in our personal lives or in our work. Perhaps, we will not change the world significantly or with a dramatic flair; maybe it is enough to just change ourselves and the small world around us.

In order to succeed, you must risk failure . . . .

FBI

Managnog Stick—Handcuff Key

A metal miniature replica of Managnog Baton, purchased in an Ontario, Canada, variety store was found to have been tooled at one end, forming a handcuff key. The York Regional Police Force in Canada submitted this item because of the potential escape risk of any subject in custody who possesses this replica.



Use of a Computer in the Budget Process

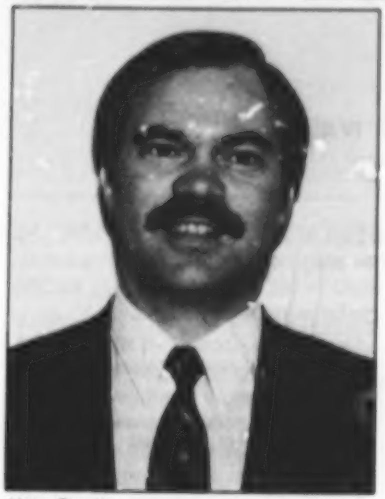
"Automation of the administrative functions of an agency can keep the number of staff support personnel to a minimum, and . . . increase their productivity."

By
MAJ. DAVID T. BOYETT
Staff and Auxiliary Services Bureau
Police Department
Norman, OK

With the advent of the desktop personal computer, more and more small- to medium-sized law enforcement agencies are using computers to increase productivity. Typical applications have been calls for service, incident reporting, recordkeeping, and UCR reporting. Along with the speedy high-tech computers using the 80286 processors came a whole world of low-cost MS-DOS software, everything from word processing, project management, user friendly data base management systems, and powerful spreadsheets. All these programs can pay back the initial investment in just a few months. Automation of the administrative functions of an agency can keep the number of staff support personnel to a minimum, and at the same time, increase their productivity.

Computerized budgeting allows you to explore many possibilities. Starting with the basic spreadsheet, a budget can be developed to provide instant updating, projections of spending trends, and all types of graphs, including pie charts, bar graphs, and line graphs. These graphs can compare one account in relation to the entire budget or compare past budgets with the proposed one. Many other software packages are available to transfer information onto video tape, color slides, or even to a plotter for better budget presentations. Although the budget process begins with the basic spreadsheet, it can quickly expand to areas of word processing and data base management.

A good wordprocessor and letter quality printer can consolidate budget sheets into the final budget document where all the written justifications and impact statements are included. A good wordprocessor will allow you to "cut and paste" spreadsheet and graphs into the final document without having to retype the entire document. In fact, if other areas in the agency have wordprocessing through a local area network or multi-user system, then the entire document can be put together without using a single piece of paper or retyping any of the justifications. All budget requests can be merged into the final document in just a few seconds. After the budget is developed and finalized on the spreadsheet, a DBMS (data base management system) software can be used to track each purchase. As the purchases are made, the DBMS will deduct the proper amount and maintain the information to provide periodic reports. Such reports can include a budget summary by account, listing of all purchases by date, vendor, or requesting division.



Major Boyett

Don P. Holyfield
Chief of Police

During the conversion process from a manual to an automated system, certain procedures must be followed to insure a successful changeover:

Review the manual system

—Is the account numbering system adequate?
—Are job responsibilities defined?
—What new information do you need the computer to keep?

Involve staff and plan a conversion schedule

—Reduces resistance to change,
—Identifies conversion steps over a period of several months to reduce disruption of normal operations.

Install hardware and software and test for "bugs" before actually using the system.

Conduct training

—Schedule all affected personnel training on basic hardware and software applications,
—Get feedback during training for system improvements,
—Set up sample applications for practice.

Plan your spreadsheet by using input from all involved, start setting up the spreadsheet "cells" and formulas.

Begin running both the manual and automated system in parallel

—Note any needed modifications,
—Compare reports from both systems.

Plan a schedule to phase out the manual system.

Implement backup and archive procedures for the computer system.

Review computer security procedures (passwords and entry logs).

Computer budgeting operates in much the same way as a manual budget, and for that reason, it is easy to convert from ledger books to an electronic spreadsheet. The spreadsheet has rows and columns to enter amounts just as manual books do. Each location is referred to as a "cell." The columns are lettered and the rows are numbered; therefore, the first cell on row one is A1, the second cell on row one is B1, etc. Large spreadsheets can contain as many as 2,000 rows and 254 columns. Each column can be formatted in size and told to store numbers, percents, or titles.

The spreadsheet may look like the same manual ledger, but the likeness stops there. By entering formulas into the spreadsheet cells, the computer can be commanded to do automatic look-ups or calculations. A look-up formula can display the current account balance, and a calculation formula can enter the new balance, along with the percentage expended. Columns of numbers can be automatically updated as new entries are made by using a simple (sum) command.

Before starting the spreadsheet, review the current budgeting technique.

Line Item Budgeting—This is the most popular in small agencies and the easiest to complete. It concentrates on projecting next year's budget based on the current and past year's expenditures. As its name indicates, this technique is a list by account number of items to purchase or salaries to fund. The budget is usually divided into three sections—personnel services, maintenance and operations, and long term capital expenditures or projects. These three sections reflect the total fiscal budget.

> ***"Computer budgeting operates in much the same way as a manual budget...."***

Performance Budgeting—Performance budgeting looks at activities and their related cost. This method is more complex because it requires a great deal of defined performance objectives. As the budget is reviewed, an impact statement should be written to describe how the objectives would be affected should that activity not be funded, and how many activities can be cut and still meet minimum objectives. This technique exercises a higher degree of management control toward overall objectives than the line item method.

PPBS (Planning-Programming-Budgeting System)—This is another complex budgeting technique requiring departmental objectives. Broken down even more than performance budgeting, PPBS requires each objective to have several activities, and each activity must be rated according to its efficiency. Then list alternate activities for each objective. Each objective presents a comprehensive list of activities with various alternatives.

Zero-Base Budgeting—Zero-base requires a new review of all projects, programs, activities, and objectives each year. As the name indicates, start with nothing and justify everything. The two basic steps of zero-base budgeting are developing decision packages and then ranking the packages.

A decision package is a document that identifies and describes a specific activity where it can be evaluated and ranked against other activities which are competing for limited resources. The document should include:

—Goals and objectives,
—Consequences of not performing the activity,
—Measures of performance,
—Alternate courses of action, and
—Cost and benefits of the activity.

Two types of alternatives should be considered:

—Different ways of performing the same function and
—Different levels of effort of performing the function (establishing a minimum level).

Ranking the decision packages directs management's attention to how much can be spent and on what should it be spent. Because of the complex nature and the hundreds of activities which must be reviewed, all levels of management must be involved in ranking decision packages from their respective areas and passing them up the chain of command. A ranking of each decision package can now be established for funding.

Spreadsheet Design

The advantage of a spreadsheet over a manual system is that the spreadsheet allows items, activities, or projects to be added, deleted, or modified during the budgeting process. With each change, the entire budget is re-calculated, updated, and ready to produce a new copy for the next round of budget discussions. The "what if" questions can be explored in a matter of seconds. What if declining tax revenues cause a 10-percent reduction in funding? Enter the reduction and see the entire budget document instantly change all account totals. Another feature of new spreadsheets allows you to make bar graphs or pie charts of any budget items. Simply mark the totals to chart, and the computer creates the requested graphics.

Any of the budgeting techniques can be designed on the spreadsheet program. The following example shows a line item M&O account. The line item part of the spreadsheet is divided in five columns (A-E) containing the following information:

Column A—Account (8 spaces) This column contains the line item account number. All requests for the same account number must be grouped together. Additional rows can be added or deleted without affecting the spreadsheet.

Column B—Amount (11 spaces) This column contains the amount budgeted for each line item. At the bottom of the column for each account, the account total will be displayed. This total is created by a simple sum routine used by the spreadsheet.

Column C—Description (17 spaces) This is a brief description of the item to be purchased or funded.

Column D—Justification (22 spaces) This is a brief justification of the item to be purchased. More-detailed information may be required on a support document.

Column E—By (8 spaces) This shows who within the agency made the original request. This is usually the person who will also have all support information if needed.

Now establish an entry and total group for each account. Remember new rows (items) can be added at any time, and any changes in the dollar amounts will automatically be updated on the total line.

When all the line items for the various accounts have been entered, test the spreadsheet and see how easy it is to increase or decrease budget amounts and have the spreadsheet retotal the account. Some spreadsheets can hold as many as 4,000 separate line items and 256 columns. (See fig. 1.)

Figure 1.

Worksheet Range Copy Move File Print Graph Data Quit
Global, Insert, Delete, Column-Width, Erase, Titles, Window, Status

BUDGET REQUEST SUMMARY

A ACCOUNT	B AMOUNT	C DESCRIPTION	D JUSTIFICATION	E BY
4344	$315.00	CRIME KIT SUPP.	PATROL UNITS	763
4344	$225.00	MAP REPLACE	DISPATCH	455
4344	$947.00	TAPES-24/HR.	DISPATCH	475
4344	$260.00	PRESENT. FLAGS	ACADEMY	366
4344	$2,000.00	FLASH BATT.	PATROL/INVEST.	600
4344	$570.00	REFILL FIRE EXT.	PATROL	500
4344	$395.00	FILE DIV./INDX.	DEPARTMENT	400
4344	$275.00	EVID. COLLECT	PATROL UNITS	500
4344	$5,250.00	FILM/PHOTO SUPP.	DEPARTMENT	200
4344	$600.00	LAB CHEM.	DEPARTMENT	200
4344	$200.00	TAPES/VCR SUPP.	TRAINING	300
4344	$140.00	PLASTIC BAGS	LAB	200
4344	$300.00	STAPLE GUNS/STPLS	RANGE	400
4344	$1,620.00	TARGET CTRS/CDBD	RANGE	400
4344	$500.00	TARGET FRAME MAT.	RANGE	400
TOTAL	$39,190.00			

Next, build a chart of accounts section of the spreadsheet. Because the information in each column is different than the line item section, the chart of accounts must start in column F. The chart of accounts section is divided into six columns (F–K) containing the following information:

Column F—Account (8 spaces) This column will list each line item account as reflected in the line item section. This section will use only one row for each account.

Column G—Name (23 spaces) This column contains the name of the account.

Column H—Last-YR (11 spaces) This contains the budgeted amount from last year's budget.

Column I—This-YR (11 spaces) Here is where the spreadsheet starts its work. Just enter the cell location for the account total in the line item section and the current account total will always be displayed here.

Column J—Change (11 spaces) Enter the formula to subtract column H from column I and the difference will always be displayed here. A negative dollar amount will be placed inside parentheses.

Column K—Percent (7 spaces) Enter the formula to calculate the percentage change between the budget years and that percentage will be displayed here. (See fig. 2.)

Now enter the accounts, set the account totals, and start your budgeting. Once the spreadsheet has been set up, it can be used repeatedly. Change any line item amount and the following changes occur automatically. First, the line item account total changes, and at the same time, the "this year" column of the chart of accounts changes. The "this year" total is adjusted, along with the dollar amount "change." Also, the account "percent" and total percent is changed. In other words, for each change made in the line item section, the spreadsheet makes six different calculations and updates in the chart of accounts.

Thus far the budgeting process has taken the following steps:

1) Budget planning from various divisions.
2) Budget requests sent from divisions to staff.
3) All requests are entered into the budget spreadsheet.

Figure 2

F ACCOUNT	G NAME	H LAST-YR	I THIS-YR	J CHANGE	K PERCENT
4211	MEMBERSHIPS	$1,310.00	$1,340.00	$30.00	2.29%
4213	TRAINING	$22,889.00	$23,575.00	$686.00	3.00%
4214	MISC. EXPENSE	$1,250.00	$1,285.00	$35.00	2.80%
4218	POLICE ACADEMY	$7,000.00	$7,000.00	$0.00	0.00%
4221	RENT/LEASE EQUIP	$14,305.00	$14,725.00	$420.00	2.94%
4223	INSURANCE	$42,000.00	$32,500.00	($9,500.00)	-22.62%
4224	MAINT. SERVICE	$13,739.00	$14,145.00	$406.00	2.96%
4225	PRISONER CARE/DE	$59,000.00	$60,770.00	$1,770.00	3.00%
4235	REIMBURSEMENTS	$5,645.00	$5,650.00	$5.00	0.09%
4244	FREIGHT CHARGES	$406.00	$415.00	$9.00	2.22%
4247	OTHER SERVICES	$4,700.00	$4,825.00	$125.00	2.66%
4251	PRINTING/PUBLICA	$9,011.00	$9,280.00	$269.00	2.99%
4253	DUPLICATING COST	$8,100.00	$8,335.00	$235.00	2.90%
4311	GENERAL OFFICE S	$12,716.00	$13,095.00	$379.00	2.98%
4326	BLDG. MAINT. SUPP	$9,354.00	$9,625.00	$271.00	2.90%
4344	EXPENDABLE TOOLS	$38,077.00	$39,190.00	$1,113.00	2.92%
4345	POLICE SUPPLIES	$9,016.00	$9,285.00	$269.00	2.98%
4347	UNIFORMS	$116,369.00	$119,785.00	$3,416.00	2.94%
4414	MAINT. INST./ELE	$2,000.00	$2,060.00	$60.00	3.00%
		$376,887.00	$376,885.00	($2.00)	.00%

4) The budget is developed through budget study sessions and changes computed on the spreadsheet.

To generate bar graphs or pie charts to show the relationship between the various accounts, just place the cursor on column I "This YR" data in the chart of accounts, select the accounts to graph, and within a few seconds, a graphic representation of the budget will be shown. (See figs. 3 and 4.)

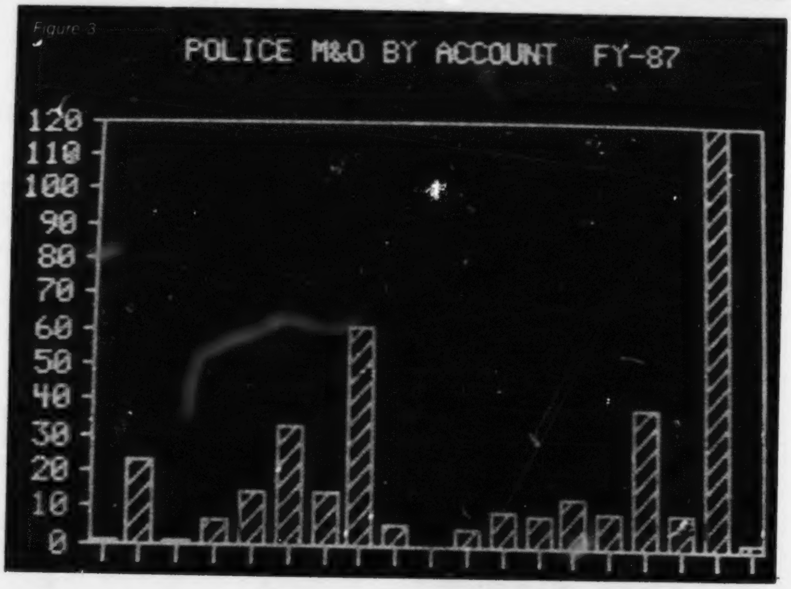


Figure 3

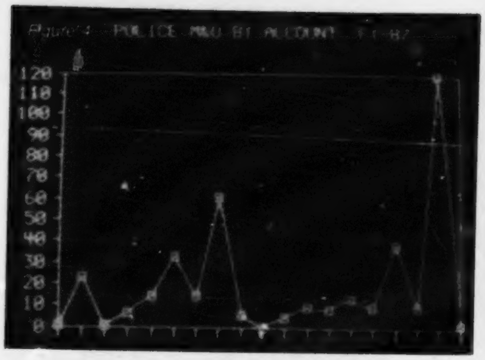


Figure 4

Slides can be taken directly from the screen or a printout made using a dot matrix printer. If using a color display, the charts will appear in color. With the proper software, a complete automated budget presentation can be made, even giving projections for the next 5 years. A statistics package can even be used to compare budget with crime rates.

Using DBMS software, a budget monitoring program can be developed to keep the budget on track throughout the year. First, a data base is constructed to hold the information from the spreadsheet's chart of accounts. Each account will have a separate entry for its budgeted amount. Then, a second data base is constructed to keep a record of each purchase or expenditure. The system works by entering the purchase amount, description, and the account from which the purchase is to be made. At this point, the computer looks up the account returning the current balance and percent expended. The purchase can then be approved or delayed according to expenditure policies.

A budget monitoring program has several benefits. Spending trends can be quickly identified, allowing for the necessary adjustments to be made between accounts or request additional funds. Account summaries can be generated at any time showing the status of each account. Requisition listings can be printed showing each expenditure for any time period. Other uses include vendor reports to show a need for bid specifications of certain items, resulting in lower bulk cost, and inventory control. To make the system "user friendly," a menu system can be used for program selections.

Budgetary feedback is provided through the completion of budget performance reports. The reports are prepared weekly or monthly, depending on policy or control requirements. Actual expenses must be reviewed to determine whether budget objectives are being achieved. Any indication that the budget is being exceeded or used to excess must be determined quickly. Budget reports should include differences between budgeted and actual expense. Most line item expenses can be monitored by comparing the percentage expended with the percent of the budget year. Each month of the budget represents 1/12, or 8.33 percent of the budget year. Another benefit of the computerized budgeting is its ability to generate a performance report at any time and automatically compute the comparison of amount expended to the percent of budget year (the computer will use .274% per day).

New budgeting techniques will require each department to review goals and objectives and adopt minimum efficiency standards. The only way to accomplish these complex tasks without additional manpower is to start taking advantage of the various low cost computers and software being used in private business and banking. Explore through training, review word processing, spreadsheets and DBMS, research computer magazines, and find out what the computer can do for your agency.

Preliminary Crime Statistics for 1985

Preliminary 1985 crime information, representing the FBI's Uniform Crime Reporting (UCR) Program and the Bureau of Justice Statistics' (BJS) National Crime Survey, has been released. The UCR recorded a 4-percent increase in crimes reported to the Nation's 16,000 law enforcement agencies, while the National Crime Survey's nationwide sample of households indicated that crime has not changed significantly from 1984 levels. The National Crime Survey measures both reported and unreported crimes.

Since 1930, crime has been measured and tabulated by the FBI using an Index of selected offenses. The Crime Index is comprised of murder, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson. Recognizing that many crimes are not reported by victims to law enforcement authorities, the Department of Justice, in 1973, began a comprehensive victimization survey which did not rely on police reports. Currently, some 49,000 households, representing about 101,000 persons age 12 and over, are queried by interviewers from the Bureau of the Census, which acts as the collecting agency for the BJS, to determine if they have been a victim of crime within the last 6 months. Crimes that are reported by those surveyed are tabulated into crime categories that are closely related to the FBI's Crime Index categories. National Crime Survey crimes are comprised of rape, robbery, assault, personal theft crimes (i.e., pocket picking, purse snatching, and theft without victim-offender contact), and household crimes (i.e., burglary, motor vehicle theft, and household larceny). Murder is not measured by the National Crime Survey. While the UCR focuses on institutional records and computes reported Crime Index episodes from law enforcement jurisdictions, the National Crime Survey measures the individual's experience on being a victim of crime.

During 1985, all offenses measured by the UCR's Crime Index increased from 1984 levels. The overall violent crime increase was 5 percent. Murder rose 1 percent; forcible rape, 4 percent; robbery, 3 percent; and aggravated assault, 6 percent. Collectively, the property crime category showed a 4-percent rise. Burglary was up 2 percent; larceny-theft, 5 percent; motor vehicle theft, 6 percent; and arson, 3 percent.

Geographically, the Southern and Western regions of the country experienced the most prominent upward Crime Index trends, 8 and 5 percent, respectively. The Northeast registered a 2-percent rise, while the Midwest showed virtually no change.

Groupings of the Nation's cities on the basis of population size showed increases in all categories except cities with populations over 1 million. Law enforcement agencies in those jurisdictions collectively recorded no change in the overall Crime Index volume from 1984 to 1985. Increases ranging from 3 to 8 percent were recorded for the other city groupings. Suburban county agencies registered a 6-percent rise and those in rural counties, a 2-percent increase.

According to preliminary 1985 National Crime Survey data, there was fundamentally no change from the previous year. Although the total crime count fell by 3 percent, from an estimated 35.5 million offenses to an estimated 34.5 million crimes, the change was not significant. Violent crime was down 3 percent, personal theft down 5 percent, and household crime down 2 percent.

Survey figures reveal that the number of personal crimes that were reported to police grew 2 percent last year, while the number of household crimes reported increased by 3 percent. Although the increases are also not statistically significant, they were consistent for most types of crimes. Other differences between the National Crime Survey and the Uniform Crime Reports are explained by variations in the way crimes in the two series are defined.

Establishing Agency Personnel Levels

"... the level of personnel needed is based on calls for service, investigative caseload, and agency policy procedure."

By
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With ever-increasing frequency, police agencies across the Nation are being required by city government to establish personnel levels which are both "budget sensitive" and consistent with the demand for police service in their respective areas.

The proliferation of the automobile, coupled with other various economic and social changes, has produced an exodus of city residents to the suburbs and rural areas. Businesses, in an effort to capture the market for goods and services, have followed this trend. Merchants, doctors, lawyers, and in some instances, industry have opted to relocate outside city limits. This gradual but steady erosion of the city's tax base has created extreme pressure on city councils and local budget analysts to establish a cost-effective approach to providing city services.

During this social and economic metamorphosis, some other less obvious changes were also beginning to occur as cities attempted to counter this change. Urban renewal was born. In many areas, Federal funding was secured, and model city programs were adopted. Old buildings were demolished to make room for new, more modern structures. Many cities acquired football and baseball franchises, built stadiums and other arenas for hockey, basketball, soccer, etc. Some businesses, as a result of these efforts and tax credits designed to promote industrial growth, chose to expand locally rather than relocate. Consequently, in many cities, the ultimate effect of this transition was that while the volume of individuals residing within city limits appeared to decline over a period of several years, these cities became the "hub" of the larger metropolitan area which continued to attract increasing numbers of people daily.

Today, when the issue of city population is addressed, vis-a-vis the potential demand for police service, the concept of "average daily population" must also be considered. Locally, for example, census figures indicate that the standard metropolitan statistical area (SMSA) increased by nearly 150,000 inhabitants from the year 1960 to 1983.[1]

Cincinnati census data reflect a 23-percent decline in population density (500,000 versus 385,000) over the last 20 years. However, a more indepth analysis reveals that in many cases where population has declined, users of police service (individuals who might be identified as those who because of age, economic condition, or family status possess a greater potential for the use of police service than do the population at large) have increased. A recently prepared budget document for the Cincinnati City Council illustrates the following demographic changes. (See fig. 1.)

In addition, information supplied by the local welfare department indicates that the number of welfare recipients increased approximately 66 percent over the past 17-year period. Consequently, if increased poverty levels translate to an increase in the use

Lieutenant Colonel Ammann

Officer Hey

Figure 1

	1960	*1970*	*1980*
Percent of total city population—Persons over Age 60	16.5%	18.1%	19.1%
Female heads of households with children under 18 years of age	7,918	12,012	16,660
Percent of total families with children under 18 years of age	12.7%	22.4%	38.0%

of police resources, as past experience would appear to indicate, the demand for police service has continued upward.

In view of these circumstances, it is an unsound management practice to attempt to determine staffing levels within police agencies by merely establishing a police officer/citizen per-capita ratio. Conversely, however, it would appear of primary importance in attempting to supply a community with the proper amount of police manpower to first attempt to determine "demand" on that agency.

Obviously, police departments provide different types and levels of service depending on community size, location, tradition, socio-economic factors, etc. For instance, in one area, police may patrol miles of coastline and consequently be concerned with the importation of illegal drugs, illegal aliens, tourist victimization, etc. In another city, primary concerns may center around vehicular traffic problems, vice, and protection of government officials.

Ultimately, in determining demand, the services police are required to perform, both according to law and policy set forth by local government, must first be addressed. Once these issues have been understood, it is then possible to identify accurately the resources (personnel level) necessary to pursue the agency's mandate.

What follows, therefore, is a methodology which attempts to measure demand for police service based on several "work generating" variables, such as:

1) Citizen calls for police service,
2) Investigative case load practices, and
3) The service delivery policy and procedures established by local government and community expectation (tradition).

However, for the sake of brevity, this article focuses primarily on the development of uniform patrol strength.

The first variable, based upon calls for service, is used to describe the number of uniformed officers needed to answer citizen calls for police service. The second variable is based upon those criminal offenses which must be assigned for followup investigation and indicates the number of investigators needed to supply the appropriate investigative services. Finally, and probably the most difficult variable to measure, is the number of officers needed to deliver those services placed upon an agency by community tradition, its elected officials, and frequently identified through administrative concerns for current threats to public safety. Pertinent literature describes some of the factors affecting the diversity of numbers allo-

"... in attempting to supply a community with the proper amount of police manpower ... first attempt to determine 'demand' on that agency."

Lawrence Whalen
Chief of Police

cated to this third variable as crime rates, population density, the geographic size of a locality, and its topographic characteristics.

Staffing Levels

"There are no universal standards which can be employed to determine proper staffing levels."[2] When determining the optimum numbers assigned to street strength, many items must be considered, including which duties these units are expected to perform.

A patrol unit's activities could be defined as the 8-hour tour of duty a police officer works each day. However, in that the police "mission" exists 24 hours a day, 365 days per year, each patrol unit works 8 × 365 or 2,920 hours annually. Further, it requires 3 patrol units to staff one police beat, 24 hours per day, 365 days per year.

In most cities, the above-mentioned patrol unit has a myriad of responsibilities in addition to responding to citizen requests for service. "As a general rule, it has been stated that uncommitted patrol time should range between 25 and 35 percent of the total time of the patrol force. The remaining 65 to 75 percent then can be apportioned between responding to calls for service and performing administrative duties such as servicing the patrol unit, transporting prisoners, etc."[3]

A generally accepted practice across various agencies is to devote approximately 35 percent of patrol unit time to responding to calls for service, 35 percent to patrol administrative activity, and 30 percent to nondirected patrol activity, as described by the International Association of Chiefs of Police (IACP) in their treatise of this issue.[4]

Calls for Service

By employing a calls-for-service concept, plus any needed patrol units dispatched as "back-up" cars, and applying the proposed 35-percent standard, the calculation to determine patrol units needed is performed in the following manner.

During a given year, assume an agency received 219,000 calls for service to which they dispatched 276,000 uniformed patrol units (cars). Further analysis reveals that each call, including multiple dispatches, required an average of 42 minutes response and service time for each patrol unit dispatched. Using this information, the following calculation is performed to determine the number of patrol units needed to meet this service demand:

$$\frac{276{,}000 \times 42}{60 \text{ minutes}} = \text{hours of calls}$$

or 193,200 hours of calls for police service.

It is then necessary to determine the number of hours a patrol unit works annually. As mentioned earlier, this simply consists of multiplying 8 hours times 365 days (8 × 365 = 2,920 hours). Therefore, if a patrol did nothing other than respond to calls for service during an 8-hour tour of duty, it would take 66 patrol units to service the above workload.

$$\frac{276{,}000 \times 42 \div 60 \text{ min.}}{2{,}920 \text{ hours}} = 66 \text{ patrol units}$$

However, since generally accepted practice indicates a patrol unit should devote approximately 35 percent of its 8-hour tour responding to calls for service, this 66 patrol unit figure must be divided by .35, which equates to 189 patrol units needed to handle 276,000 calls if 35 percent of an 8-hour tour is spent addressing this workload.

At this point it might be appropriate to discuss briefly the issue of double cars (two officers per car). In some cities, because certain beats possess a greater potential for police officer injury due to the volume of violent crime in certain areas, police managers may opt to assign two officers in a patrol unit for safety reasons. When this patrol configuration becomes necessary, the time of day and beat assignment of double cars must be determined. One method of addressing this problem is for managers to evaluate each beat according to violent crime. In Cincinnati, this was done through analysis of robberies and aggravated assaults during an annual time frame. The most violent prone beats can then be identified and a decision made concerning double cars.

It should be noted that in calculating the number of patrol units needed when double cars are deployed, a .75 efficiency factor exists in performing this calculation. In other words, three

2-officer units can perform, in the same amount of time, the work it takes four 1-officer units to perform. As Boydstun, Sherry, and Moelter point out, "The average two-officer unit has almost one hour (54.7 minutes) more unit time per watch, or about two hours more officer time, available for officer-initiated activities than did the average one-officer unit."[5]

Assume an agency after researching this issue decides to double 30 beats during the second and third shifts. Thirty beats run double during second and third shifts = 60 double beats (30 × 2 = 60).

Earlier, it was determined that 189 patrol units were necessary to handle 276,000 calls for service, with each patrol unit spending 35 percent of its 8-hour tour of duty resolving these calls. However, now a decision is made to double 60 of these patrol units by placing an additional officer in the car on two shifts. As a result of this new staffing configuration and in view of the 75-percent efficiency factor mentioned above, it is now necessary to recalculate the number of patrol units required to meet the previously mentioned (276,000 calls) service demand. (See fig. 2.) Therefore, the agency must field 169 patrol units, of which 60 should be two-officer units or approximately 36 percent two-officer patrol units.

This plan would provide an agency the ability to cover the most hazardous beats in the city with two-officer patrol units during those hours which possess the greatest potential for both citizen and police injury. The attendant effect of the two-officer patrol unit is also factored into this formula.

The next issue to be confronted is that of personnel. This would appear to be the "bottom line" when addressing the size of the police agency. Consequently, what must now be determined is manpower strength to staff the aforementioned patrol configuration (169 patrol units of which 60 are two-officer cars.)

Research indicates that locally, it takes an average 1.78 police officers to staff a one-officer patrol unit (car) 8 hours per day, 365 days per year. Therefore, 169 one-officer units times 1.78 = 301 police officers. Additionally, since it has been decided to double 60 patrol units, the total number of officers required using this patrol configuration is determined in the following manner:

169 × 1.78 = 301
60 × 1.78 = 107
Total 408

Consequently, 408 personnel are necessary to staff 169 patrol units of which 60 are doubled between the hours of 3:00 p.m. and 7:00 a.m. each day. The necessary support and supervisory personnel essential to the efficient use of the agency's patrol force are not included in this calculation.

Figure 2

189 = Total one-officer patrol units are needed to service 276,000 calls and multiple-car dispatches based on a 35-percent standard

60 = Two-officer patrol units with a 75-percent efficiency factor

60 Two-officer patrol units = 80 one-officer patrol units
189
−20
169 = Total patrol units needed of which 60 are two-officer patrol units

It should be noted, however, that while 35 percent of a patrol unit's time is consumed responding to calls for service, in most agencies the remaining 65 percent is apportioned to address the administrative calls workload (35 percent) and nondirected patrol activity (30 percent.)

Administrative Calls—Directed Patrol

Administrative calls are those which are not necessarily generated by citizens. These calls to which patrol units respond are the means by which police supervision directs its officers to perform some administrative duty. Administrative calls for service are determined by calculating the difference between total calls and citizen-generated calls for service. For example:

Total Calls for Service	333,000
Citizen Generated Calls	- 219,000
Administrative Calls	114,000

Also categorized within this 35-percent time block of the patrol unit's 8-hour days are the following responsibilities:

—*Roll call* for attendance, inspection, assignment, training, etc.;

—*Followup investigations* which generally involve minor criminal offenses, i.e., petit theft and part II offenses; and

—*Miscellaneous directed patrol activity* to conduct various investigations and surveillance of conditions and behavior which may or may not be criminal. Although complete records and exact hours spent on this activity are not precisely recorded, they do frequently occur. Examples of this responsibility are followup investigation in instances where no other officers are required (sus-

"... what would appear ... as declining city populations and a resultant decreased workload for police has in fact become an increase in measurable demand for police service."

pected gambling activity, parking complaints, etc.), surveillance of high hazard traffic and accident locations, conditions on beat (light outages, dangerous road conditions, improperly functioning traffic signals), and general inspections of police vehicle during each 8-hour tour of duty (gas, oil, etc.).

Nondirected Patrol Activity

Nondirected patrol activity has been defined as random patrol but is much more than this. Good patrol management demands adequate time to permit such activities on the part of its patrol forces. Such activity accounts for approximately 30 percent of a patrol unit's 8-hour day and includes the following:

—*Self-initiated investigations* are the essence of an aggressive patrol unit, although difficult to measure. It is through the actions of a well-trained, well-informed patrol force that many crimes are discovered, arrests made, or criminal activities discouraged. Some examples are field queries, business and residence security checks, and nondirected traffic enforcement. Many DUI and nonaccident hazardous moving violations also fall into this category.

—*Citizen contacts*, outside the realm of service, are spontaneous and often evolve from other activities. Directions to lost citizens, assisting a disabled motorist, crime prevention, and legal or procedural issues are common topics of such contacts.

—*Order maintenance* includes the various duties requiring police presence concerning the inspection and surveillance of licensed premises. Patrolling in and around specific locations (schools and senior housing facilities), areas involving labor disputes, and crowd control of special events are other examples of order maintenance.

Conclusion

The traditional approach to resolving questions concerning police agency staffing levels based on community population, or the citizen/police officer per capita basis, would appear grossly inappropriate in view of today's modern and mobile society. The tremendous tide of people who rush to the heart of American cities each business day and then home again have created new challenges which, in many cases, demand new solutions by police managers.

As cities' daily populations swell to the opening of the business day, major sporting events, conventions, etc., police administrators find themselves in a struggle to provide manpower essential to the security of citizens. Therefore, what would appear to many budget analysts and other city officials as declining city populations and a resultant decreased workload for police has in fact become an increase in the measurable demand for police service. Frequently, a city's SMSA can provide a much enhanced perception regarding the fluctuation of a city's average daily population. In addition, as cities change demographically, there appears to be data which supports the notion that the primary users of police service remain static or even increase. Consequently, the potential for police intervention can become even greater.

It is our contention that a number of factors must be considered when determining the personnel requirement of a police agency. The purpose of this effort, therefore, is to discuss the more-important variables which effect demand for police service and which, consequently, should be measured when establishing personnel levels for any police agency.

The data collection process and methodology for actually calculating the level of personnel needed is based on calls for service, investigative caseload, and agency policy procedure. Only after these variables are identified and the agency's assignment availability determined can the actual number of police officers required to staff the organization be identified.

Footnotes

[1] SMSA is a multicounty area contiguous to the county which contains the corporate limits of a city. In this case, seven counties are contiguous to Hamilton County, which includes the City of Cincinnati.

[2] *Local Government Police Management*, 2d ed. (Washington, DC: City Management Association, 1982), p. 128.

[3] Ibid.

[4] Ibid.

[5] John E. Boyd, and others, *"Patrol Staffing in San Diego"* (Washington, DC: Police Foundation, 1977), p. 53.

The Judicial Preference for the Search Warrant

The Good Faith Warrant Exception to the Exclusionary Rule

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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

Consider the following passage in a Supreme Court opinion discussing the fourth amendment:[1]

> "Its [fourth amendment] protection consists in requiring that those inferences [probable cause to believe that a crime has been committed and that specific evidence is at a particularized location] be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime. Any assumption that evidence sufficient to support a magistrate's disinterested determination to issue a search warrant will justify the officer in making a search without a warrant would reduce the amendment to a nullity and leave the peoples' homes secure only in the discretion of police officers."[2]

At first glance that language may seem harsh in assessing the role of the law enforcement officer attempting to gather evidence in a criminal investigation; however, a closer and more reflective examination indicates it is only representative of the Supreme Court's strong preference for search warrants as the best means of upholding the protections afforded by the fourth amendment.[3]

A search warrant benefits the individual citizen by: 1) Providing a neutral magistrate to make probable cause decisions, 2) setting proper boundaries for the search, and 3) assuring the person whose property is searched of the lawful authority and limits of the search itself.[4] The Court has repeatedly expressed this strong preference for search by warrant, to the point of declaring that "in a doubtful or marginal case [of probable cause] a search under a warrant may be sustainable where without one it would fail."[5]

Notwithstanding the benefits to the citizen and the Supreme Court's preference, search warrants have often been viewed by law enforcement officers as an obstacle rather than an asset. Undoubtedly, one of the reasons for that perception was the somewhat complex and time-consuming process which had evolved for acquiring a warrant, particularly when information from a confidential source formed a basis for probable cause. Furthermore, even when a warrant was acquired, evidence obtained through its execution could still be readily susceptible to suppression if a reviewing court disagreed with the issuing magistrate's judgment.

> ***"Police officers should not overlook independent corroboration of an informant's tip as a likely source of facts supporting probable cause."***

Additionally, hearsay information garnered from such sources is frequently available. By abandoning the strict "two-prong test" and adopting the "totality of the circumstances" standard, the Supreme Court has clearly encouraged the law enforcement officer to use such information in obtaining a warrant prior to search, rather than foregoing the warrant procedure altogether.

As common sense would dictate, the more facts in an affidavit, the more likely probable cause to search will exist by the "totality of the circumstances." Police officers should not overlook independent corroboration of an informant's tip as a likely source of facts supporting probable cause. It is therefore recommended, particularly when doubt exists as to either sufficient basis of knowledge or veracity of the informant—which remain important in probable cause determinations—that the officer corroborate the informant's information as completely as time considerations allow.

INCENTIVE FOR SEARCH BY WARRANT: *LEON V. UNITED STATES*

The Supreme Court in *Gates* refused to consider whether the exclusionary rule should be so modified as to not require exclusion of evidence obtained in the reasonable belief on the part of the police officer that the search and seizure was made in accordance with the fourth amendment.[18] In 1984, however, the Court provided proper incentive, in addition to further encouragement, to the law enforcement officer to search pursuant to warrant by recognizing a good faith warrant exception to the exclusionary rule in the cases of *United States* v. *Leon*[19] and *Massachusetts* v. *Sheppard*.[20] By this exception, evidence is admissible if the seizing officer acted in objectively reasonable reliance on a search warrant issued by a neutral and detached magistrate, even if the warrant is later found to be invalid.

In *Leon*, a confidential informant of unproven reliability advised an officer of the Burbank, CA, Police Department in August 1981, that two individuals, later determined to be Sanchez and Stewart, were selling cocaine and methaqualone from their residence. The informant also indicated he had witnessed a methaqualone sale by Stewart 5 months earlier.

On the basis of this information, the Burbank police initiated an extensive investigation of Sanchez and Stewart and their residence and discovered, among other things, that Sanchez had previously been arrested for possession of marijuana; that several persons, at least one of whom had prior drug involvement, were observed arriving at the residence and leaving with small packages; that the automobile of Del Castillo, who had previously been arrested for possession of 50 pounds of marijuana, was seen at the residence; that Del Castillo's employer, Leon, had been arrested in 1980 on drug charges and a companion of Leon had informed the police at that time of Leon's heavy involvement in the importation of narcotics; that Burbank officers had previously learned that an informant had told a Glendale, CA, police officer that Leon stored a large quantity of methaqualone at his then residence in Glendale; and that Leon presently resided in Burbank.

An "experienced and well-trained" Burbank police officer used these facts and other observations in an affidavit in support of an application for a warrant to search, among other things, Leon's residence in Burbank. The warrant was issued by a State superior court judge, and the ensuing search of Leon's residence produced large quantities of narcotics. A motion to suppress this evidence was sustained by the trial court, which concluded that the affidavit was insufficient to establish probable cause. The court did find that the affiant-officer had acted in good faith, but refused to declare that the exclusionary rule should not apply even when there is a reasonable good faith reliance on a search warrant.

The U.S. Court of Appeals for the Ninth Circuit upheld this suppression, reasoning that the affidavit failed to satisfy the *Aguilar-Spinelli* "two-prong test." The court found no showing of the informant's basis of knowledge of Leon's criminal activities and the informant's reliability and stated that these deficiencies were not cured by the police investigation.

The Supreme Court did not consider whether there existed sufficient probable cause under the "totality of the circumstances" test of *Gates*, but instead modified the exclusionary rule so as to allow the use of evidence obtained by officers acting in objectively reasonable, good faith reliance on a search warrant issued by a neutral and detached magistrate but ultimately found to be unsupported by probable cause.

In arriving at this decision, the Court first noted that the purpose of the exclusionary rule is to deter police misconduct.[21] Again, the Court referred to its strong preference for search pursuant to warrant and stated that in most cases, "when an officer acting in objective good faith has obtained a search warrant from a judge or magistrate and acted within its scope . . . there is no police illegality and nothing to deter."[22]

The Court made the practical determination that "in the ordinary case, an officer cannot be expected to question the magistrate's probable cause determination or his judgment that the form of the warrant is technically sufficient."[23] Since "penalizing the officer for the magistrate's error, rather than his own, cannot logically contribute to the deterrence of Fourth Amendment violations,"[24] the Court concluded that the "marginal or nonexistent benefits produced by suppressing evidence obtained in objectively reasonable reliance on a subsequently invalidated search warrant cannot justify the substantial costs of exclusion."[25]

The Court found that the officer's application for the warrant to search Leon's house was clearly supported by more than a "bare bones" affidavit. It related the results of an extensive investigation, had been reviewed by several deputy district attorneys, and had provided evidence sufficient to have convinced some of the justices of the court of appeals that probable cause existed. Under these circumstances, the Court found that the officer's reliance upon the search warrant was objectively reasonable, and therefore, that the application of the exclusionary rule was inappropriate.

Similarly, in *Sheppard*, decided the same day as *Leon*, the Supreme Court found the seizing officers to have met the objectively reasonable reliance standard of the good faith warrant exception. In that case, a Boston police detective investigating a murder applied for a search warrant on the basis of an affidavit which listed a number of items police wished to search for in Sheppard's residence. These included clothing of the murder victim, a blunt instrument that may have been the murder weapon, wire and rope that matched that found on the body of the victim, and clothing that might have blood stains. The affidavit was reviewed and approved by the local district attorney, the district attorney's first assistant, and a police sergeant.

Because it was Sunday, however, the local court was closed, and an appropriate warrant application form could not be found. The detective finally located a warrant form previously used in another district to search for controlled substances. After making some changes in the form, the detective presented the form and the affidavit to a judge, informing him that the warrant might need further changes. Concluding that the affidavit established probable cause, the judge told the detective that the necessary changes in the warrant form would be made. In fact, the judge did make some changes, but did not incorporate the affidavit into the warrant or change that portion of the warrant which continued to authorize a search for controlled substances. The judge then signed the warrant, advising the detective that there was sufficient authority to conduct the requested search.

The evidence described in the affidavit was discovered in the ensuing search, which was directed by the same detective who had obtained the warrant. At trial, the judge ruled that notwithstanding the fact that the description of the items to be seized in the warrant was completely inaccurate, the evidence would be admitted because the police had acted in good faith in executing what they believed was a valid warrant. On appeal, the Massachusetts Supreme Judicial Court reversed Sheppard's conviction, reasoning that the warrant was defective and the evidence should have been suppressed.

The Supreme Court reversed, emphasizing that the officers who conducted the search had an objectively reasonable basis for their belief that the warrant validly authorized the search. The Supreme Court noted that the officers "took every step that could reasonably be expected of them."[26] The detective who obtained and directed the execution of the warrant was not "required to disbelieve a judge who had just advised him, by word and by action, that the warrant he possess[ed] authorize[d] him to conduct the search he ha[d] requested."[27] Any error of constitutional magnitude was committed by the issuing judge, not the police officers, and the purpose of the exclusionary rule, to deter police misconduct, would not be served in such a situation.

The Supreme Court did, however, qualify its decision in *Sheppard* by stating they were not addressing a factual situation where the executing officer was not the same officer who obtained the warrant or was unfamiliar with the warrant application.[28] In such situations, it would seem a reasonable officer would read the warrant itself prior to execution, notice its inaccuracies, and be required to take the necessary steps to correct these inaccuracies. As qualified, the good faith warrant exception is applicable when the magistrate, and not the police, has erred, and the police subsequently reasonably rely upon the issued warrant despite the error of the magistrate.

"The good faith warrant exception will not apply and evidence will be inadmissible in limited situations when the law enforcement officer lacks objectively 'reasonable grounds for believing the warrant was properly issued.'"

REQUIREMENTS FOR GOOD FAITH RELIANCE UPON A SEARCH WARRANT

The Supreme Court has provided the good faith warrant exception to the exclusionary rule as further encouragement and incentive for search pursuant to warrant. It is, therefore, imperative that the law enforcement officer know what is, and what is not, objectively reasonable, good faith reliance upon the issued search warrant. A closer examination of the *Leon* and *Sheppard* cases, as well as a survey of lower Federal and State cases which have applied this exception, is instructive.

Officers' Objectively Reasonable Good Faith

The primary focus in applying the good faith warrant exception is not upon the determination of probable cause by the magistrate, but the conduct of the police officer in relying upon the magistrate's authorization to search. In this regard, the police officer's reliance upon the search warrant must be objectively, and not subjectively, reasonable for the good faith warrant exception to apply. Such an objective test holds the police officer to a higher standard than a subjective analysis of his conduct would require.

For his reliance on the search warrant to be objectively reasonable, the police officer must meet a minimal level of knowledge of the law's requirements. He will be held to the standard of a "reasonably well-trained officer" in determining if he should have known "that the search was illegal despite the issuing magistrate's authorization."[29]

Holding officers to this standard necessitates continued police training programs, particularly with regard to the limits which the fourth amendment imposes on police conduct. In *United States* v. *Freitas*,[30] a U.S. district court placed great emphasis upon training standards in determining if there existed objectively reasonable, good faith reliance upon a search warrant. In finding that Agents of the Drug Enforcement Administration did not reasonably rely upon a warrant which authorized their surreptitious entry into a residence for the purpose of only seaching for, but not seizing, items to manufacture methamphetamine, the court referred to the absence of any reference to such a search, for which there was no jurisdictional basis,[31] in any of that agency's training manuals or training programs.

As professional and up-to-date training regimens are prompted by the objectively reasonable standard of the good faith warrant exception, so too are the implementation and adherence to proper police procedures by the officer making application for the warrant. In both *Leon* and *Sheppard*, for example, the officers who sought the warrant had the respective affidavits reviewed by at least one district attorney prior to application to the magistrate for search warrant. Such review procedure, whether it be by a local prosecuting attorney, a police legal adviser, or a senior experienced police officer, will tend to assure that the officer who is applying for the search warrant has taken every step that could reasonably be expected of him prior to securing the warrant.

Although this reasonableness standard is objective in nature, the Supreme Court in *Leon* warned that matters particularly known by the individual officer who applies for the warrant will not be disregarded in determining if the good faith warrant exception should apply. Therefore, "all of the circumstances—including whether the warrant application had previously been rejected by a different magistrate—may be considered"[32] in determining if the officer's reliance upon the warrant was reasonable.

Additionally, the objective reasonableness of not only the officer who executed the warrant but also of those officers who "obtained it or who provided information material to the probable cause determination"[33] are to be considered. The good faith of those officers who have obtained or executed the warrant is thus also affected by an objective review of the reasonable conduct of their fellow officers who have supportive roles in the process.

It is important to emphasize that the Supreme Court in *Leon* did not intend to condone careless police procedures or intentional violations of constitutional guarantees by its implementation of the good faith warrant exception to the exclusionary rule. Officers are held to an objectively reasonable standard in both issuance and execution of the search warrant. Exclusion remains a judicial remedy to deter misconduct if 1) reasonable grounds for believing the warrant is valid are lacking or 2) the search warrant is not executed properly. The objective reasonableness of all officers involved in terms of training, adherence to proper police procedures, and detailing all facts and circumstances to the magistrate are relevant in both aspects of the warrant process. Each is discussed in turn below.

Absence of Grounds to Believe Warrant is Proper

The good faith warrant exception will not apply and evidence will be inadmissible in limited situations when the law enforcement officer lacks objectively "reasonable grounds for believing the warrant was properly issued."[34]

Several procedural requirements in obtaining a search warrant are so basic, and are of such common knowledge, that a finding of good faith has been precluded in their absence. Some courts, in applying the *Leon* standard for determining the applicability of the good faith warrant exception to the exclusionary rule, have found the failure of the officer-affiant to supply a written affidavit or recorded sworn testimony in support of the application for search warrant,[35] or to be placed under oath when before the issuing magistrate,[36] to be so fundamental in nature as to preclude the finding of objectively reasonable reliance on the search warrants issued.

This does not suggest that the officer-affiant must now assume the role of insurer against errors by the magistrate. In *United States* v. *Maggitt*,[37] for example, the U.S. Court of Appeals for the Fifth Circuit found Federal agents and police officers to have been reasonable in their belief that any flaws in their written affidavit for search warrant were cured by the issuing magistrate's detailed inquiry into the sources of the information in their affidavit. Although the magistrate had not recorded the oral responses to his inquiries as required by the Federal Rules of Criminal Procedure, the court ruled that to exclude the seized evidence because of that failure by the magistrate would serve no purpose in deterring police misconduct.

Additionally, the Supreme Court in *Leon* outlined four situations where the officer could not rely on the good faith exception because he would be unable to establish reasonable grounds to rely upon the validity of the search warrant. Those four situations are addressed separately.

Affidavit Deliberately or Recklessly False

When the law enforcement officer misleads the issuing magistrate by submitting an affidavit to the magistrate which the officer knows to contain false information or "would have known was false except for his reckless disregard of the truth,"[38] the good faith exception will not apply.

Illustrative of this type of situation is *United States* v. *Boyce*.[39] In that case, the affiant proffered to the magistrate an affidavit which set forth information from a confidential informant. The affiant stated that the informant had provided information to the affiant for the past month, and in all instances, the information had been corroborated by independent investigation. In fact, the affiant had met this informant only once prior to obtaining the information included in the application for the search warrant, and the police had then conducted no subsequent investigation to corroborate the informant's information. Additionally, the affiant failed to advise the magistrate that he knew the informant to be under the influence of narcotics when supplying the information contained in the affidavit. In light of the affiant's reckless disregard for the truth, the Federal district court determined that exclusion of the evidence found in the search made pursuant to the warrant was appropriate, and the good faith exception would not apply.[40]

Warrant Not Approved By Neutral and Detached Judicial Officer

The Supreme Court has repeatedly indicated that only a truly impartial magistrate can issue a valid search warrant by fourth amendment standards. The magistrate must be totally independent of the police or prosecutors[41] and have no personal or pecuniary interest in his conclusion to issue or deny the warrant.[42]

Just as the issuing official cannot be connected to the police, he also cannot act as a "rubber stamp" for them. No reasonably well-trained law enforcement officer should rely upon a magistrate's authorization to search when that officer is aware that the magistrate has wholly abandoned his role of a neutral and detached judicial official.[43]

In determining if such judicial abandonment will preclude a determination of good faith, the courts will concentrate on the police officer's knowledge of such abandonment. It is therefore important that the officer who obtains the warrant assure that the issuing magistrate carefully consider the submitted affidavit and application, and not just perform a perfunctory review and give automatic approval.

For example, in *United States* v. *Breckenridge*,[44] the U.S. Court of Appeals for the Fifth Circuit found that even though the issuing magistrate may not have read the supporting affidavit, the officer who obtained the search warrant reasonably relied in good faith upon the magistrate's authorization to search. The officer had orally explained the contents of the submitted affidavit to the magistrate while the magistrate appeared to the officer to be reading it. As the magistrate at least appeared to the officer to have fulfilled his role, there was no improper misconduct to deter, and therefore, no reason to apply the exclusionary rule.

With this "exception" to a good faith determination in mind, police should also avoid the practice of magistrate "shopping" when seeking a

"... when doubt exists as to either sufficient basis of knowledge or veracity of the informant—which remain important in probable cause determinations—the officer [should] corroborate the informant's information as completely as time considerations allow."

search warrant. If the magistrate is later determined to have abandoned his judicial role, the deliberate act of seeking out that particular magistrate would show knowledge on the part of the police of this abandonment of function on the part of the magistrate.

Warrant Patently Deficient

When the warrant itself is so facially deficient as to prohibit objectively reasonable reliance upon its validity, good faith will not apply.[45] A Texas appellate court has found this requirement to preclude reasonable reliance by executing officers on a search warrant which was not signed by the issuing magistrate.[46]

The Supreme Court in *Leon* also noted that depending on the circumstances, the warrant may be so deficient "in failing to particularize the place to be searched or the thing to be seized"[47] that the executing officers could not reasonably presume it to be valid. Despite the inaccuracies of description in the *Sheppard* warrant, it was not, under those circumstances, found to be so deficient as to prohibit good faith, as the officer who obtained and later directed execution of the warrant took every reasonable step to assure its validity and justifiably relied upon the magistrate's authorization.

Similarly, in *United States* v. *Arenol*,[48] the U.S. Court of Appeals for the Eighth Circuit found that a typographical error, which caused the subject warrant on its face to authorize a search of "3208," rather than the correct "3028" Third Avenue South, did not render the warrant, under the circumstances, so facially deficient as to preclude good faith reliance on its validity. Despite the typographical error, the officers in *Arenol* also did everything reasonably possible to assure the warrant's validity. The address was correctly typed on various documents submitted with the application and warrant. In addition, an officer, noticing the error, called the issuing magistrate and informed him of the mistake. The magistrate, in turn, advised the officer to correct the address on the warrant and execute it.

No Reasonable Basis for Finding Probable Cause

Lastly, good faith will not be applicable where the affidavit in support of the search warrant is "so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable" [citations omitted].[49] Again, the focus is not on whether the magistrate made a correct determination of probable cause, but whether a well-trained law enforcement officer could harbor an objectively reasonable belief in the existence of probable cause.

Illustrative of this focus on the reasonableness of the officer's belief in probable cause in *United States* v. *Fama*.[50] In that case Agents of the Drug Enforcement Administration were found to have reasonably relied on the probable cause determination of a U.S. district court judge who issued a search warrant, even though the probable cause to search the defendant's residence was based upon information received 35 days before it was presented to the judge. In making such a determination, the U.S. Court of Appeals for the Second Circuit pointed to: 1) The abundance of details in the affidavit, 2) drafting of the affidavit by a Federal prosecutor, 3) consideration of the same affidavit by another U.S. district court judge in issuing 30 arrest warrants and 20 search warrants, and 4) the fact that the judge who issued the search warrant in question had also issued 12 additional warrants based upon the same affidavit.

Conversely, a Texas decision is indicative of when probable cause has been found to be so lacking in the affidavit as to preclude good faith belief in its existence. In *Adkins* v. *State*, [51] the subject affidavit included the following conclusory information: 1) It had been reported to the affiant that the driver of the vehicle which was to be searched was a drug dealer, and 2) the driver was observed handing another reported drug dealer a package in the vehicle. The Texas court of appeals found this information to be so "bare bones" as to prohibit an objectively reasonable belief in its sufficiency.

Additionally, an Idaho appellate court has found that the good faith warrant exception is not applicable when the information in the affidavit in support of probable cause has been tainted by the police officer's own misconduct.[52] In that case, the affiant-officer included in his affidavit in support of a warrant to search the defendant's apartment information he had obtained from a previous illegal entry into the apartment, unbeknownst to the issuing magistrate. The court therefore found the warrant to be so tainted by the officer's illegal conduct as to preclude a finding of good faith on his part.

In summary, the *Leon* and *Sheppard* cases dictate, and subsequent Federal and State cases illustrate, that search by warrant is judicially preferred. When available, the warrant will assure admissibility of evidence, even if later ruled invalid, if law enforcement officers adhere to the following procedural and constitutional safeguards in seeking to have the warrant issued:

1) State accurate and specific facts in support of probable cause;

2) Assure that the issuing magistrate actually reviews and considers the affidavit; and

3) Describe the items to be seized and the place to be searched in such detail in the warrant that an officer unfamiliar with the investigation could execute the warrant without doubt.

These considerations can best be achieved through continued training in fourth amendment search and seizure areas and use of procedural guidelines, including supervisory and prosecutorial review of search warrant applications, prior to presentation to a judicial officer.

Properly Executed Warrant

Even if the police officer has an objectively reasonable belief in the proper issuance of the search warrant, he must still have "properly executed the warrant and searched only those places and for those objects that it was reasonable to believe were covered by the warrant."[53] For example, officers armed with a search warrant are usually required to give notice of their authority and purpose, or "knock and announce," prior to making forceful entry into residential premises to be searched,[54] unless, of course, such entry falls into a recognized exception to any announcement requirement.

Additionally, law enforcement officers cannot disregard the parameters of the search warrant and turn the search into what is in effect a general search, with all matters of discretion left to the executing officers, and still claim good faith reliance on the warrant.[55]

CONCLUSION

With the "totality of the circumstances" test and the "good faith warrant exception to the exclusionary rule," the Supreme Court has clearly encouraged the law enforcement officer to use the warrant procedure, even in instances that might fall into one of the narrowly drawn exceptions to the search warrant requirement. By obtaining a search warrant whenever practical, the officer most effectively meets his responsibility to respect the rights afforded to citizens by the fourth amendment. If reasonably relied upon and executed properly, the search warrant assures introduction of evidence integral to the truth-finding function of the judge or jury, even if the warrant is later found to be invalid.[56]

Footnotes

[1] U.S. Const. amend. IV provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

[2] *Johnson* v. *United States*, 333 U.S. 10, at 14 (1948).

[3] *E.g., United States* v. *Lefkowitz*, 285 U.S. 452 (1932); *MacDonald* v. *United States*, 335 U.S. 451 (1948); *Jones* v. *United States*, 362 U.S. 257 (1960); *United States* v. *Chadwick*, 433 U.S. 1 (1977).

[4] *United States* v. *Chadwick*, *supra* note 3.

[5] *United States* v. *Ventresca*, 380 U.S. 102, at 106 (1965). *See, e.g., Aguilar* v. *Texas*, 378 U.S. 108 (1964); *Spinelli* v. *United States*, 393 U.S. 410 (1969).

[6] *Weeks* v. *United States*, 232 U.S. 383 (1914); *Mapp* v. *Ohio*, 367 U.S. 643 (1961) (The exclusionary rule essentially prohibits introduction of evidence acquired or derived through governmental conduct violative of the fourth amendment). For a detailed discussion of the exclusionary rule, *see* Schofield, Daniel L., "The Fourth Amendment Exclusionary Rule and the United States Supreme Court," *FBI Law Enforcement Bulletin*, vol. 46, No. 3, March 1977, pp. 26–31.

[7] 462 U.S. 213 (1983) (hereinafter referred to as *Gates*).

[8] *Supra* note 4.

[9] *Supra* note 4.

[10] For a comprehensive discussion of the "two-pronged test" of *Aguilar* and *Spinelli*, *see* McGuiness, Robert L., "Probable Cause: Informant Information," *FBI Law Enforcement Bulletin*, vol. 51, Nos. 11–12, November-December 1982, pp. 23–31, pp. 19–24.

[11] *Supra* note 7 at 238. (The Court additionally stated that in determining the overall reliability of the tip, a deficiency in either the basis of knowledge, veracity, or reliability of the informant may be cured by a "strong showing" in the other. *Id.* at 233. With this in mind, courts will likely continue to place considerable reliance upon these factors in determining the sufficiency of probable cause based upon an informant's tip.)

[12] *Id.* at 239.

[13] *See, e.g., United States* v. *Badessa*, 752 F.2d 771 (1st Cir. 1985); *United States* v. *Peyko*, 717 F.2d 743 (2d. Cir. 1983); *United States* v. *Pritchard*, 745 F.2d 1112 (7th Cir. 1984); *United States* v. *Robinson* 756 F.2d 56 (8th Cir. 1985); *United States* v. *Ross*, 713 F.2d 389 (8th Cir. 1983); *United States* v. *Doty*, 714 F.2d 761 (8th Cir. 1983); *United States* v. *Bereford*, 750 F.2d 57 (10th Cir. 1984) (It is not the purpose of this article to address the myriad of factual situations which would amount to sufficient probable cause based upon an informant's tip using the "totality of the circumstances" test).

[14] *Supra* note 7, at 237.

[15] *Id.* at 236.

[16] 80 L.Ed.2d 721 (1984) (hereinafter referred to as *Upton*).

[17] On remand to the Massachusetts court, the "totality of the circumstances" test was rejected, and instead, the *Aguilar-Spinelli* "two-pronged test" was used in assessing the sufficiency of informant information, based upon State constitutional grounds; *Commonwealth* v. *Upton*, 476 N.E. 2d 548 (Sup. Ct. Mass. 1985). *Accord, State* v. *Jackson*, 688 P.2d 136 (Sup. Ct. Wash. 1984); *State* v. *Kimbro*, 496 A.2d 498 (Sup. Ct. Conn. 1985).

[18] Justice White had recognized a good faith warrant exception to the exclusionary rule in his concurring opinion in *Gates*, *supra* note 7, at 246. The Supreme Court had also earlier recognized an exception to the exclusionary rule when a police officer in making a search relies in good faith on a constitutional norm which is later changed by the courts, *United States* v. *Peltier*, 422 U.S. 531 (1975), or when an officer relies in good faith on a local ordinance which is later found to be unconstitutional. *Michigan* v. DeFillippo, 443 U.S. 31 (1979).

[19] 82 L.Ed.2d 677 (1984) (hereinafter referred to as *Leon*).

[20] 82 L.Ed.2d 737 (1984) (hereinafter referred to as *Sheppard*).

[21] *Id.* at 687 (Legal commentators have taken issue with the determination that the exclusionary rule is of deterrent value only and is not a personal right of the individual whose fourth amendment rights have been violated). *See*, LaFave, W., Search and Seizure—A Treatise on the Fourth Amendment, vol. 1, sec. 1.2 (1985).

[22] *Id.* at 697.

[23] *Id.* at 697.

[24] *Id.* at 697.

[25] *Id.* at 698.

[26] *Supra* note 20, at 744.

[27] *Id.* at 744.

[28] *Id.* at 744 n. 6.

[29] *Supra* note 19, at 698 n. 23 (The Supreme Court has recently applied the same reasonably well-trained officer standard in determining if an officer was objectively reasonable in believing that his affidavit in support of an arrest warrant established probable cause and that he properly applied for the warrant in order to avoid civil liability for alleged fourth amendment violations under the rule of qualified immunity. *Malley* v. *Briggs*, ____ U.S ____ (1986). (Decided March 5, 1986.)

[30] 610 F.Supp. 1560 (N.D. Cal. 1985).

[31] The Court found the search warrant failed to require seizure of the items named in the warrant and excused the executing agents from leaving a copy of the warrant and the inventory, as required by Fed. R. Crim. P. 41.

[32] *Supra* note 19, at 698 n. 23.

[33] *Id.* at 698 n. 24.

[34] *Supra* note 19, at 698.

[35] *State* v. *Anderson*, 688 S.W.2d 947 (Ark. Sup. Ct. 1985).

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[36] *Collins* v. *Florida*, 465 So.2d 1266 (Fla. Ct. App. 1985).

[37] 778 F.2d 1029 (5th Cir. 1985).

[38] *Supra* note 19, at 698-699, citing *Franks* v. *Delaware*, 438 U.S. 154 (1978). For a detailed discussion of *Franks*, see McGuiness, Robert L., "Misstatements in Affidavits for Warrants: *Franks* and its Progeny," *FBI Law Enforcement Bulletin*, vol. 51, No. 3, March 1982, pp. 24–31.

[39] 601 F. Supp. 947 (D. Minn. 1985).

[40] *See also*, *United States* v. *Stannert*, 762 F.2d 775 (9th Cir. 1985), *modified* 769 F.2d 1410 (1985) (Affiant's failure to inform magistrate that the defendant had only been arrested and not convicted for a previous narcotics offense, that an explosion which had occurred at the place to be searched was prior to defendant's occupancy, and that an anonymous caller had suggested that residents of place to be searched were using ether to free base cocaine rather than to manufacture drugs as stated in affidavit, precluded good faith), *United States* v. *Reivich*, 610 F. Supp. 538 (D. Mo. 1985) (Failure to inform magistrate of inducement to informant precluded good faith); *Compare with*, *United States* v. *Estes*, 609 F. Supp. 564 (D. Vt. 1985) (Informing magistrate of communications which might be subject to marital privilege was not reckless or dishonest).

[41] *See*, *Coolidge* v. *New Hampshire*, 403 U.S. 443 (1971) (Attorney general who was in charge of murder investigation to which warrant related was not an impartial magistrate).

[42] *See*, *Connally* v. *Georgia*, 429 U.S. 245 (1977) (Justice of peace who received $5 for issuing a search warrant and no fee for denying a warrant application was not an impartial magistrate).

[43] *Supra* note 19, at 699, citing *Lo-Ji Sales, Inc.* v. *New York*, 442 U.S. 319 (1979) (Magistrate who issued search warrant abandoned his neutrality by accompanying police to place to be searched to then determine what could be seized).

[44] 782 F.2d 1317 (5th Cir. 1986). *See also*, *United States* v. *Hendricks*, 743 F.2d 653 (9th Cir. 1985) (Magistrate did not abandon his role for purposes of determining good faith on the part of the seizing law enforcement officers when he issued an anticipatory or prospective search warrant).

[45] *Supra* note 19, at 699.

[46] *Miller* v. *Texas*, 703 S.W.2d 352 (Tex. Ct. App. 1985).

[47] *Supra* note 19, at 699.

[48] 768 F.2d 263 (8th Cir. 1985). *See also*, *United States* v. *Faul*, 748 F.2d 1204 (8th Cir. 1984) (Describing items to be seized in the warrant as "all firearms" did not, under the circumstances, preclude good faith); *United States* v. *Accardo*, 749 F.2d 1477 (11th Cir. 1985) (Describing items to be seized as "all corporate records" did not preclude good faith where affidavit had been reviewed by several assistant U.S. attorneys prior to application for warrant); *In Re Motion to Quash Grand Jury Subpoena*, 593 F. Supp. 184 (S.D. W. Va. 1984) (Typographical error on warrant that it was to be executed by August 12, rather than on the correct August 22, did not preclude good faith).

[49] *Supra* note 19, at 699.

[50] 758 F.2d 834 (2d Cir. 1985). *See, e.g.*, *United States* v. *Thomas*, 757 F.2d 1359 (2d Cir. 1985); *United States* v. *Gant*, 759 F.2d 484 (5th Cir. 1985); *United States* v. *Savoca*, 761 F.2d 292 (6th Cir. 1985); *United States* v. *Thornton*, 746 F.2d 39 (D.C. Cir. 1984).

[51] 675 S.W.2d 604 (Tex. Ct. App. 1984). *See, e.g.*, *United States* v. *Sager*, 743 F.2d 1261 (8th Cir. 1984); *United States* v. *Granger*, 596 F. Supp. 665 (W.D. Wis. 1984); *State* v. *Thompson*, 369 N.W.2d 363 (N.D. Sup. Ct. 1985).

[52] *State* v. *Johnson*, 701 P.2d 239 (Idaho Ct. App. 1985).

[53] *Supra* note 19, at 696 n. 19.

[54] *See*, *State* v. *Sakellson*, 379 N.W.2d 779 (N.D. Sup. Ct. 1985) (Officers' failure to knock and announce not objectively reasonable).

[55] *See*, *United States* v. *Strand*, 761 F.2d 449 (8th Cir. 1985) (No objectively reasonable basis for believing the warrant which named "stolen mail" as the items to be seized, included normal household items).

[56] At least two States have rejected the good faith search warrant exception to the exclusionary rule based upon State constitutional grounds. *State* v. *Novembrino*, 491 A.2d 37 (N.J. Sup. Ct. 1985); *People* v. *Bigelow*, 488 N.E.2d 451 (N.Y. Sup. Ct. 1985).

AFI To Honor Outstanding Law Enforcement Officials

On November 7, 1986, the National Association of Federal Investigators (AFI) will again honor exceptional members of the law enforcement profession at its annual conference culminating in the awards banquet in Washington, DC. As in the past, the AFI awards will cover a broad array of professional accomplishments and recognize excellence in all aspects of law enforcement.

The categories for this year's awards are: Federal Investigator of the Year (one each for outstanding performance in the fields of criminal, financial, security/counterintelligence, fraud and civil/administrative, investigations), Law Enforcement Leadership Award, Legal Award, Legislative Award, and Public Service Award. In addition, AFI will accept nominations for the AFI Honor Roll, a distinction conferred posthumously to a law enforcement officer who has sacrificed his or her life in the line of duty.

Nominations are now being accepted for the above awards through law enforcement agencies. Nominees need not be affiliated with the AFI to qualify. For more information on the AFI awards banquet, or to obtain nomination forms for submission through your agency, please call or write:

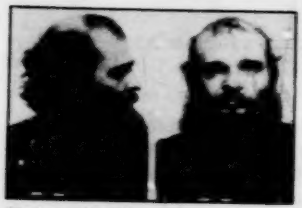
National Association of Federal
Investigators
1612 K Street, Suite 202
Washington, DC 20006
(202) 466-7288

Intent to submit nominations must be filed no later than July 15, 1986, to be considered.

WANTED BY THE FBI

Any person having information which might assist in locating these fugitives is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, D.C. 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Because of the time factor in printing the FBI Law Enforcement Bulletin, there is the possibility that these fugitives have already been apprehended. The nearest office of the FBI will have current information on the fugitives' status.



Photographs taken 1977

Norman Edward Risinger,

also known as J.E. Owings, James E. Owings, James Edward Owings, Norman Edward Reisinger, Norman Edward Risimer, N.E. Risinger, Norman Risinger, Norman Edward Patrick Risinger, "Spider." W; born 3-17-42, Port Arthur, TX; 6'0"; 160–180 lbs; med bld; balding-graying brn hair; brn/hzl eyes; lt comp; occ—mechanic; scars and marks: scar between eyebrows, scar on stomach and back; left ear pierced; tattoos: devil with words "Born to Raise Hell" on left forearm; skull with crossed pistons and words "Outlaws Forever" and "CHICAGO" on left upper arm, and others; remarks: wears mustache and beard; reportedly a member of the Outlaw motorcycle gang. Wanted by FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:
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Fingerprint Classification:
19 L 1 U tat Ref: T U T U T U T 1
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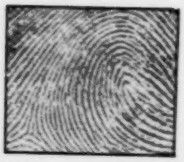
I.O. 4855

FBI No. 198 922 D

Caution

Risinger is being sought as the alleged gunman in the execution-style, shotgun murders of three rival motorcycle gang members, whose bodies, weighted with concrete blocks, were later found floating in a rock pit. Consider Risinger armed and dangerous.



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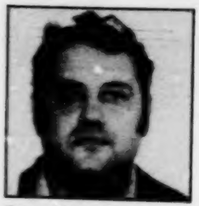

Photo taken 1977

Leo Joseph Koury,

also known as Mike Decker, Leo J. Koury. W; born 7-14-34, Pittsburgh, PA; 5'11"; 240 lbs; hvy bld; blk hair; brn eyes; drk comp; occ—restaurant operator, baseball umpire; remarks: reported to be a diabetic requiring insulin shots.

Wanted by FBI for RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS—MURDER, EXTORTION, ATTEMPTED MURDER.

NCIC Classification:
121013CO15TTAA12CI14

Fingerprint Classification:
12 9 U OOO 15 Ref: 1
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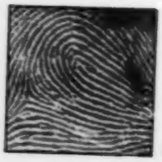
Social Security
Number Used: 224-38-4566

FBI No. 738 312 B
I.O. 4824

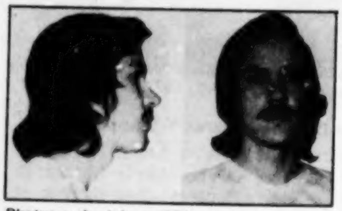
Caution

Koury, a known organized crime figure who operated several Virginia restaurants frequented by the gay community, is being sought in connection with the shooting murders of two individuals and attempted contract murder of three others. He is also wanted for conspiracy to kidnap an individual for a substantial ransom payment. Koury should be considered armed and extremely dangerous.

FBI TOP TEN FUGITIVE



Right index fingerprint



Photographs taken 1978

Joseph Arlin Shepherd,

also known as Joe Sheperd, Joe Shepherd, Joseph Arlen Shepherd, Joseph A. Shepherd, Joseph Arlon Shepherd, Joseph Arlond Shepherd.

W; born 1-5-53, Sweetwater, TN; 6'0"; 150–155 lbs; sldr bld; brn hair; grn eyes; med comp; occ—auto mechanic, laborer; scars and marks: scar on left forearm; remarks: reportedly illiterate.

Wanted by FBI for INTERSTATE FLIGHT—MURDER, AGGRAVATED ASSAULT.

NCIC Classification:
POPIPMPO17DIPO17PI19

Fingerprint Classification:
17 O 29 W IMO 17
I 28 W OOI

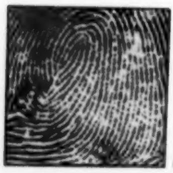
I.O. 4819

Social Security
Numbers Used: 411-94-4104; 411-54-4404

FBI No. 877 750 K 10

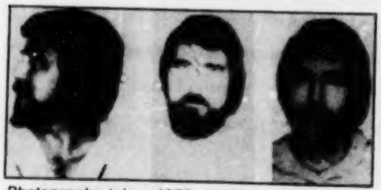
Caution

Shepherd, an escapee from custody who may be armed with a shotgun, is being sought in connection with the sexual assault and murders of two teenage females whose bodies were found buried in shallow graves. Shepherd, who has also been charged with assaulting a police officer, reportedly has stated he would not be taken alive. He should be considered armed, dangerous, and an escape risk.



Left ring fingerprint

WANTED BY THE FBI



Photographs taken 1975, 1977, and retouched

Jose Dionisio Suarez Y Esquivel,

also known as Dionisio Suarez Esquivel, Jose Suarez Esquivel, Jose D. Suarez, Jose D. Suarez-Esquivel, Jose Dionisio Moises Suarez Esquivel.

W; born 2-17-39, Holguin, Oriente, Cuba (not supported by birth records); 5'10"; 175 lbs; large bld; blk hair; brn eyes; lt comp; occ—used car salesman;

scars and marks: scar upper lip under nose; remarks: may be wearing beard and/or mustache.

Wanted by FBI for CONSPIRACY TO MURDER A FOREIGN OFFICIAL.

NCIC Classification:
120912171312CM041413

Fingerprint Classification:

12 M 1 U IOO 13 Ref: 3
M 3 W MIO 3

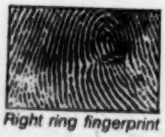
I.O. 4799

Social Security
Numbers Used: 202-70-9712; 262-70-9712

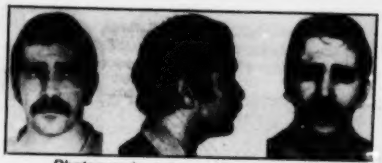
FBI No. 264 663 E

Caution

Jose Dionisio Suarez Esquivel and Virgilio Pablo Paz Romero, Identification Order No. 4800, members of a terrorist group reportedly responsible for several acts of violence in which deaths and injuries have occurred, are known to have been armed in the past and are being sought in connection with the bombing deaths of a former Chilean ambassador and female business colleague. Consider both armed and dangerous.



Right ring fingerprint



Photographs taken 1971 and 1973

Luis R. Archuleta,

also known as Lorenzo Buscateri, Lawrence Carbone, Jose Martinez Lopez, Lawrence Larry Pasateri, Ramon Benito Trevino Pedrosa, Benito Trevino Pedroza, Larry Pusateri, Larry Lurcea Pusateri, Larry Luneca Pusateri, Lawrence Pusateri (True Name), Lawrence Carbone Pusatari, Lorenzo Pustari, and others.

W; born 1-6-43, Brooklyn, NY; 5'7"; 150 lbs; med bld; brn hair; brn eyes; med comp; occ—barber;

scars and marks: scar on left eye; tattoos: cross with branch of flowers and "GLORIA" on left arm, butterfly and women's head on right arm, rose on chest, rosary entwined with madonna on back.

Wanted by FBI for INTERSTATE FLIGHT—ESCAPE, HOLDING HOSTAGES.

NCIC Classification:
PO6712PO142065PMPI15

Fingerprint Classification:

17 O 11 R OOO 14 Ref: 11
L 18 R OMI 20

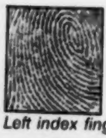
I.O. 4810

Social Security
Number Used: 549-56-8517

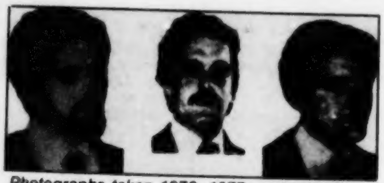
FBI No. 817 439 D

Caution

Archuleta, using a .38-caliber handgun, held a prison guard hostage during his escape from custody. At the time of escape, he was serving a lengthy sentence for shooting and seriously wounding a police officer. Consider Archuleta armed, dangerous, and an escape risk.



Left index fingerprint



Photographs taken 1976, 1977, and retouched

Virgilio Pablo Paz Y Romero,

also known as Alejandro Bontempi, Virgil Paz, Virgilio Paz, Virgilio P. Paz, Virgilio Pablo Paz, Virgil Romero, Virgilio Romero, Virgilio Paz Romero, Virgilio P. Paz-Romero, "Javier," "Romero."

W; born 11-20-51, Santa Clara, Las Villas, Cuba (not supported by birth records); 5'7"–5'9"; 150–185 lbs; med bld; brn hair; brn eyes; lt comp; occ—clerk, truck driver, used car salesman;

remarks: may be wearing beard and/or mustache or clean shaven.

Wanted by FBI for CONSPIRACY TO MANUFACTURE UNLAWFUL EXPLOSIVES; CONSPIRACY TO MURDER A FOREIGN OFFICIAL.

NCIC Classification:
0409070911AA07AA0410

Fingerprint Classification:

4 1 U 11
1 aUa

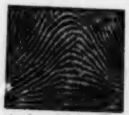
I.O. 4800

Social Security
Numbers Used: 140-44-9630; 071-36-2803

FBI No. 626 118 L9

Caution

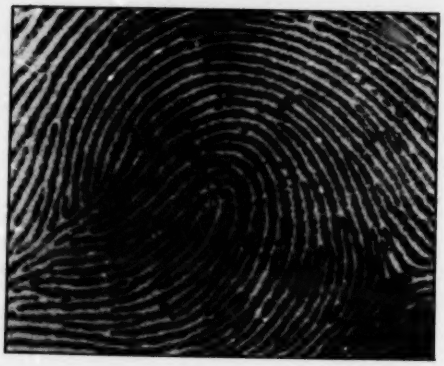
Virgilio Pablo Paz Romero and Jose Dionisio Suarez Esquivel, Identification Order No. 4799, members of a terrorist group reportedly responsible for several acts of violence in which deaths and injuries have occurred, are known to have been armed in the past and are being sought in connection with the bombing deaths of a former Chilean ambassador and female business colleague. Consider both armed and dangerous.



Left middle fingerprint

Questionable Pattern

This impression displays a predominance of downward flowing looping ridges. Not so readily apparent are two adjacent upward flowing looping ridges which appear in the left central area of this pattern. The examiner determined that the upper of these two looping ridges should be discounted due to the sharpness of the recurve and that the delta for the lower looping ridge is on the recurve, thereby causing it also to be discounted. This pattern is classified as a loop with 16 counts. It is referenced to a double loop whorl, as a variance in inking pressure could result in a different appearance of the upward flowing looping ridges. The tracing would be inner.



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The Bulletin Notes

Detective Anthony J. Venditti of the New York City Police Department was slain and his partner, Detective Kathleen Burke, was wounded in a confrontation with three heavily armed assailants, who were later arrested. The two detectives were operating as members of the FBI-New York City Police Department Joint Organized Crime Task Force. The Bulletin salutes their commitment to the spirit of cooperation between law enforcement agencies.

Detective Venditti

Detective Burke

55/8

FBI

Law Enforc Bul

August 1986

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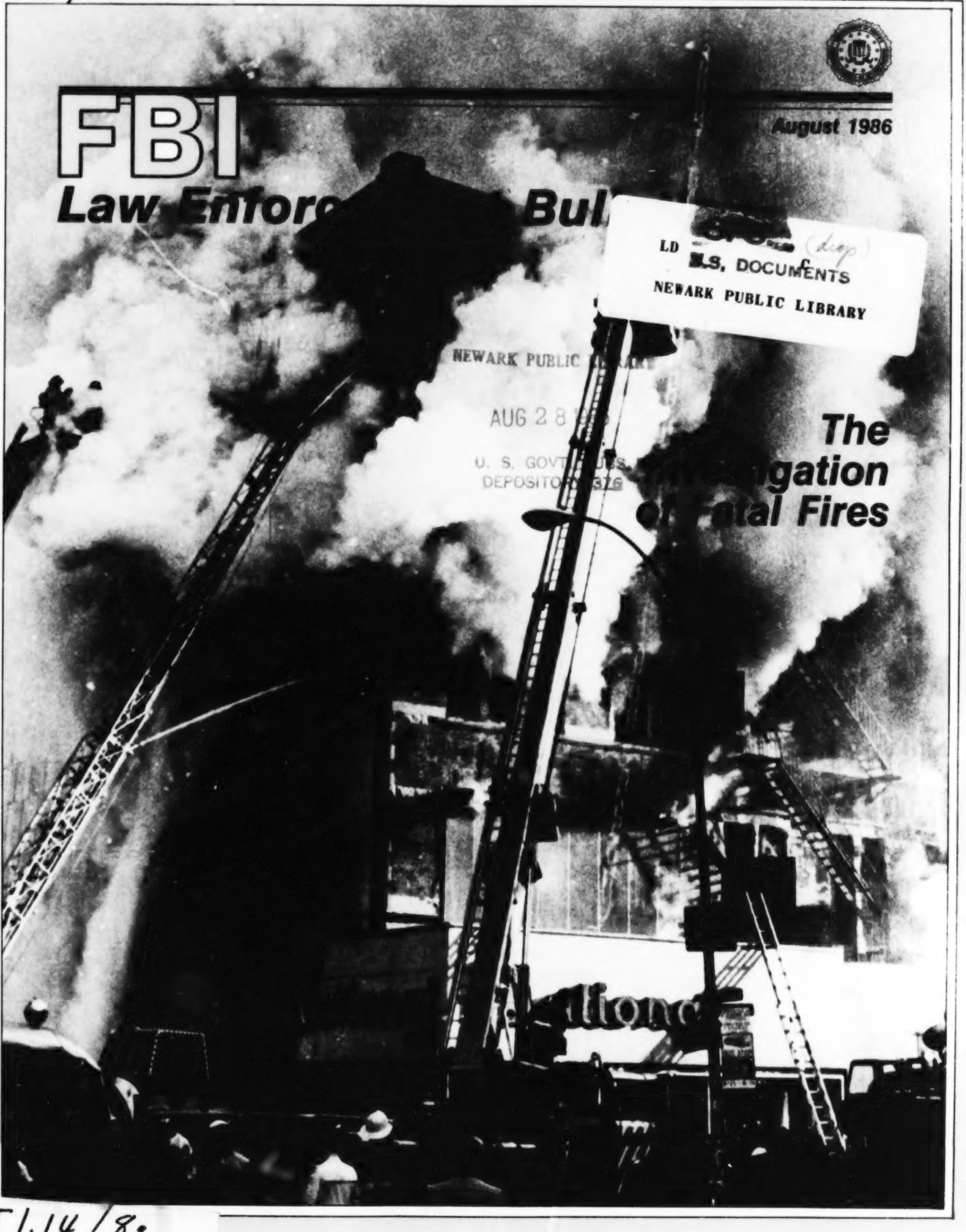

The Investigation of Fatal Fires

J1.14/8:

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An 8-alarm fire in a New York City department store in which there were 12 fatalities resulted in an arson homicide fire investigation.
See article p. 1.

FBI
Law Enforcement Bulletin

United States Department of Justice
Federal Bureau of Investigation
Washington, DC 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 6, 1988.

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Fire marshal performs a physical examination at the scene of an arson homicide in Manhattan. Photo by [illegible]

The Investigation of Fatal Fires

Views of the Fire Investigator

(Part I)

By
JOHN STICKEVERS
Deputy Chief Fire Marshal
New York City Fire Department
New York, NY

What is meant by the term "fatal fire"? Basically, it is any fire, of whatever size, whose direct action causes the death of one or more human beings. However, the connotation, which is the more commonly used meaning, describes any fire, of whatever size, where a dead human body is discovered. This article will provide a broad overview of the methods and means used by the Bureau of Fire Investigation, New York City Fire Department, to establish the basis for conducting a fatal fire investigation.

Fire

While matter can be neither created nor destroyed, it can be altered, and there are many ways in which this alteration can be made. The application of heat is but one of those ways, resulting in a process generically termed "fire." (A working definition of fire is "rapid oxidation, usually accompanied with the evolution of heat and light.") This is a very complex chemical phenomenon that changes the fuel involved in its physical shape and properties and in its chemical makeup.

Deputy Chief Stickevers

Joseph E. Spinnato
Fire Commissioner

Origin

The ability to interpret and make sense of the results of the above phenomenon makes a good fire investigator. It is necessary to reconstruct the fire scene by replacing physical items of debris into their proper locations, and then observe what changes to the structure and its contents were caused by the fire. It is the mental application of the scientific principles of matter and energy, which had to have occurred to produce those changes, that allows us to determine the point at which the fire originated.

Cause

Once the point of origin has been derived, any evidence uncovered is used to determine the cause. A listing of all the possible causes present at the point of origin will evolve and be used to eliminate all nonappropriate causes. For every action there is a reaction, and every cause has an effect. Fire investigators find the former by making a logical interpretation of the latter. This elimination comes about as the result of the knowledge gained through observation and investigation.

This whole deductive process is controlled by the rule which states that in order to have a fire, you must have a fuel source, a heat source, and an event which brings the two together. Through training and experience, a fire investigator understands, recognizes, correlates, and collates each of the foregoing at a fire scene. He decides through deduction, and sometimes inference, that a particular item or event is or is not important, and possibly, the cause of the fire.

There are only two causes for fires—accidental/providential and incendiary. Accidental/providential is inclusive of all heat-producing objects or events created by man or God, but whose use on this occasion did not have as its intent the results it obtained—the fire. Incendiary includes only the man-made, heat-producing objects or contrived events which, on this occasion, were meant to produce the results obtained.

The fire investigator's ability to internalize the subtle differences between the two provides him with information which will enable him to discern a fact pattern and establish the logical and correct solution to the cause of the fire. Hence, a gallon of gasoline inside of a building, ignited by an open flame, could be either an accidental or incendiary cause of the resulting fire. It is not merely the nature of the fuel or the type of heat source combined that mandates the cause; it is the human motivation, or lack of it, which precipitates this event. If all causes except a human-connected one can be eliminated, and it is determined that the fire has intent as one of its components (human motivation), then the case becomes a criminal investigation for arson.

Therefore, fire investigation is a quest not only for a specific heat source of fuel but an exploration into the psychology of those individuals who are involved in the event, in order to uncover any intent, or lack thereof, before a determination can be made as to the cause of a specific fire.

Common Motives

The National Fire Academy lists the following basic motives for people to set fires:

—Frauds for direct gain (insurance) and indirect gain (eliminate competition);

—Pyromania;

—Crime concealment (murder);

—Vanity (security guards for employment or hero wants to save victim);

"A fatal fire investigation is really two separate investigations conducted simultaneously . . . for the cause of the fire and the cause of the victim's death."

—Spite/revenge (in work, love, or religion);

—Civil disorders, revolutions, and political activity; and

—Actions of juveniles, adolescents, or children (ranges from gang activities to curiosity).

These motives are not listed in the order of their importance or occurrence, especially in New York City. The frequency of the above-mentioned motives is difficult to ascertain, since the obvious motive for a fire may really mask the underlying and true reason for that fire.

Guidelines for Conducting Fatal Fire Investigations

A fatal fire investigation is really two separate investigations conducted simultaneously. An investigation is conducted for the cause of the fire and the cause of the victim's death. The two investigations cannot be separated from one another, because the cause of one depends on the cause of the other and will affect, and sometimes change, the focus of the entire investigation.

Main Concerns of the Fire Investigator

It is the victim's cause and manner of death which will, at times, dictate the decision to rule an otherwise obvious and apparent accidental fire as one which could only have resulted from incendiary conduct by the human element. Whether the victim was alive or dead at the time of the fire's inception often emerges as the pivotal factor for determining if the fire's cause is accidental or incendiary.

Three questions are raised concerning victims of fatal fires:

1) Was he/she alive or dead at the inception of the fire?
2) Did he/she ingest some substance that impaired judgment to the point that safe exit from the fire scene was not possible?
3) Is the victim, in fact, the person whom we believe he/she to be?

The way and means by which these questions are answered advances a person's continuing education in fatal fire investigation. However, they will remain primarily the responsibility of the medical examiner. When a medical examiner gives a cause of death, any intent by a guilty human agency will be inferred from all the facts which have been ascertained in the case.

Photographs and Sketches

The victim, or the body, should be observed at the scene where it is found. This has always been, and will probably remain, a problem because the bodies are usually moved by firefighters and this usually occurs before the investigators arrive.

If the investigator does arrive prior to the removal of the body, photographs should be taken to show:

1) The scene exactly as it is when the body is discovered;
2) The body as it is uncovered, and the debris that is removed from over it;
3) The body as it is taken out, and the surface on which it was lying; and
4) The underside of the body that was initially hidden from view.

As many photographs should be taken as possible since the scene, body, and evidence will be obliterated or changed in a very short period of time. Several photographs of each item from different angles should be taken, since it is impossible to predict which apparently insignificant item might gain importance and become a critical piece of evidence as the case progresses. In addition to photographs, sketches should be made to depict the surroundings to show the location and position of the body and the location of the camera for each photograph.

Examining the Body

The victim, or the body, is best observed where it is found, but this is not always possible. Even so, the investigator should still examine the body, regardless of where it is located.

Fire fatalities produce two categories of victims—those whose bodies have been burned and those whose bodies are not burned but usually suffer some effect of their surroundings. The extent of destruction to the body limits the ability to arrive at logical conclusions without the assistance of other experts.

Location and Position of the Body

If the body was not removed from the scene by firefighters, it is important to the investigation to determine if the location and position of the body is normal or abnormal; in other words, does the victim belong there (occupant, employee, customer, etc.)? Also, the proper location for the time frame must be considered. For example, was the victim the occupant whose body was found in the kitchen at dinnertime?

Most victims are expected to be found face down because they generally will be attempting to flee the fire. This means they were walking, which is nothing more than a series of falls forward propelled and controlled by the legs.

"Evidence collection in a fatal fire investigation is subject to all the same proscriptions and criteria as evidence in any other fire investigation...."

The body of the victim will usually be found headed toward an exit. If this is not the case, two questions are raised: Was the victim attempting to extinguish the fire or effect a rescue? or could the victim have become disoriented as a result of the smoke, alcohol, or drugs (legal and illegal)?

Manner or Mode of Dress

If the body has been exposed to flames, it may not be possible to determine the manner or mode of dress of the victim. However, if the clothing is intact, the investigator should take note of the type of clothing in relation to the occasion, location, or time frame of the fire (pajamas, sleeping, bedroom, nighttime). Other characteristics to be considered are the size, fit, style, and expense in relation to the measurements and lifestyle of the victim. Or perhaps the victim was dressed abnormally, such as in costume for a ritualistic event or party or in the clothing of the opposite sex.

Signs of Violence

Markings on the body could have occurred prior to or after death and could have been self-inflicted or the result of actions of others or the prevailing circumstances. The investigator should examine the body for any puncture wounds from a bullet, sharp instrument, miscellaneous projectiles from an explosion or falling objects, or signs of blunt force trauma (depressions, fractures, lacerations, bruises).

Another point to consider is the appearance of the victim as a result of change in body chemistry. Lividity is the reddish purple coloration of the skin due to the settling of the body fluids to the lowers portion of the body as the result of gravity. Under normal circumstances, it will commence 1 to 2 hours after death and is completed after 3 to 4 hours.

The stiffening of all the musculature of the body is rigor mortis. Under normal circumstances, it commences from 3 to 5 hours after death and starts in the jaw and progresses downward. After approximately 48 hours, it dissipates, and the body will again appear supple.

Cyanosis results in a bluish-grey ashen appearance caused by a lack of oxygen and may be the result of a heart attack or asphyxia. Other signs of changes in body chemistry the investigator should be aware of are cherry red skin caused by carbon monoxide, cyanide, or immersion in icy water or snow; blisters; and body temperature. When occurring up to 15 minutes after death, blisters will contain the same sera and create marginal reddening to the skin, in much the same manner as when the victim was alive. After death, other blisters containing a different type sera, or air, can appear. The body's temperature drops about 3 to 4 degrees per hour for the first 2 to 3 hours. After that, it drops 1 to 2 degrees per hour until equilibrium is reached with the ambient temperature.

In addition to changes in body chemistry, the outside physical appearance can present clues as to the cause of death. Soot on the skin indicates that the body was present during the fire, while soot around and in breathing passages indicates the victim was alive and breathing during the fire. If the victim is found in a pugilistic position, this can be the result of heat contracting the large muscles and may indicate the victim's presence during the fire.

Injury to the skull can be caused by heat turning the liquids in the head to steam and fracturing the skull internally or causing the skull to explode. However, this condition can also be the result of a high-velocity projectile entering the skull or the exit wound for a large-caliber bullet. Petechial hemorrhages, the bursting of blood vessels in the eyeballs, can usually be the sign of manual strangulation.

The body of the victim should also be examined for any preexisting conditions prior to death. The investigator should note any scars, growths (warts, moles, and tumors), deformities or abnormalities, and use of prosthetic devices. If the victim is female, distension in the abdomen and swelling of the breasts are signs of pregnancy that an autopsy would positively confirm. An x-ray would show fractures to the skull, ribs, arms, legs, or digits.

If possible, prints should be taken of all parts of the body that reproduce prints which can be matched with those on file at any authorized agency of record. If tattoos are visible on the body, or if obscured for some reason, confirmation may be obtained at autopsy by analysis of the lymph gland in the armpit closest to the site. This examination is conducted to discover deposits of ink that may have accumulated there over the years. It may also be possible to determine the color and age of this ink.

All this information will assist the investigator of a fatal fire in determining the identity of the victim, the fact that the victim was dead or alive at the time of the fire, and the cause of death.

Interviewing Witnesses

The interview of witnesses in a fatal fire investigation has a dual focus—to determine the cause of the fire and the cause of the victim's death. Therefore, along with all the others normally interviewed in the course of investigating any fire, those who can provide the greatest amount of information about the victim should also be questioned. These would include family (husbands, wives, children, parents, and siblings), relatives, friends, neighbors, and coworkers. With regard to friends, neighbors, and coworkers, the length of acquaintance should not affect who is, or is not, interviewed. Those who knew the victim for only a short period of time may provide information crucial to the investigation.

When conducting an interview, the investigator should attempt to gather facts regarding the victim's mental and physical health, if the victim used any type of medication, or if there was the possibility of suicide. Other areas to explore are the social and economic status of the victim. This would include marital status, employment/financial stability, and existence of life insurance (conditions, amount, beneficiary).

The investigator should also question witnesses, family, and acquaintances regarding the actions of the victim before, at the time of, and during the fire. It is important to determine if the victim was acting rationally in comparison to normal behavior patterns, or if the victim was under the influence of drugs or alcohol. Perhaps, the victim may have been doing something that may have caused the fire and/or death, such as using solvents near an open flame or smoking in bed.

Collecting Evidence

Evidence collection in a fatal fire investigation is subject to all the same proscriptions and criteria as evidence in any other fire investigation, except that a portion of the evidence will differ only in what it tends to prove—the identity of the victim and the instrumentalities of his/her death. Therefore, the investigator should seek items that would prove the victim's identity, such as personal papers and letters, photographs, jewelry, clothing, prized personal possessions, and religious artifacts. At the same time, it is important to look for the instrumentalities of death, including firearms, knives, poisons, ligature material, and blunt instruments.

Whatever evidence is collected with regard to the cause of the fire, the victim's identity, or the instrumentalities of death should be sent, if necessary, to the laboratory for analysis. The type of analysis requested would depend on what is being analyzed, the relationship to the case, and the facts intended to be proved.

All facts collected in the investigation to this point are nothing more than words with an indistinct, if not meaningless, explanation of the efforts of the investigator and will remain so until put in the proper order and perspective. When this occurs, preliminary conclusions will be reached regarding the victim's identity, his/her condition at the time of the fire, the cause of death, and reasons for failure to escape.

At this point it is necessary to confer with the medical examiner and request specific examinations at autopsy. These two steps are critical to the final solution of this case. The medical examiner has the expertise to confirm, or refute, preliminary findings. Also he cannot reach any true or sensible conclusion to his portion of the investigation until he is apprised of all the facts surrounding the death and the expert interpretation of these facts. No one, however gifted, can operate in a vacuum and exclude the findings, or opinions, of other equally knowledgeable people in fields pertinent to this type of investigation.

Formulate the Cause of the Fire

To formulate the correct cause of the fire, a review of all information, including that supplied by the medical examiner, is vital. This constitutes the totality of circumstances. Only when those variables which, because of the physical laws of nature, do not fit are excluded will a final, and correct, cause of the fire be determined.

Final Report

After a conclusion to the cause of the fire has been reached, the investigation will either be continued or closed. Circumstances will dictate which path will be followed. Whichever option is chosen, a complete and concise report must be filed. This report will act as the basis for present and future actions in this matter.

Our capability and competence will be measured not only by our ability to uncover pertinent facts and correctly interpret them but also by our ability to articulate all the material necessary to present a logical and cogent argument for arriving at the final conclusion.

Conclusion

A fire investigator attempts to make sense out of chaos. However, by following the steps outlined in this article, the task of completing a fatal fire investigation successfully becomes an achievable goal.

FBI

(Continued next month)

A Partnership Against Crime

"The program requires a great deal of energy and commitment from all levels of the police organization, as well as the involved citizenry."

By
DARYL F. GATES
Chief of Police
Los Angeles Police Department
Los Angeles, CA

Policing in the late 1980's and into the 1990's will be greatly different from the policing of two decades ago. One of the major differences, and an area of critical concern to police executives and managers, will be resolving demands for increased service within the constraints of reduced fiscal and personnel resources. Such prospects require today's managers to examine closely strategic alternatives to meet the demands that will be placed on their organizations.

The basic mission of law enforcement is to prevent crime. In the wake of such major tax reduction measures as Proposition 13, enacted in California during 1978, the Los Angeles Police Department, like many governmental agencies, was forced to eliminate or reduce many important but so-called "nonessential" services. One critical area which suffered as a result of post-Proposition 13 budget cuts in Los Angeles was crime prevention.

Historically, the Los Angeles Police Department has been a pioneering agency in the area of crime prevention. Neighborhood Watch has long been a cornerstone program fostering a tremendous educational conduit to the public. Specialized programs such as Business Watch, Senior Citizen Protection, Traffic Safety, Home Security, Community Self-Protection, and Crime Prevention Specialist Volunteer programs have all had meaningful impact on crime. More recently, the Los Angeles Police Department, in conjunction with the Los Angeles Unified School District, pioneered the Drug Abuse Resistance Education (DARE) Program. DARE uses specially trained, uniformed Los Angeles police officers to teach elementary school-aged children the skills necessary to avoid getting started on drugs. Although these programs have proven extremely effective in reducing crime, lack of sufficient funding through the normal budgetary process has prevented the Los Angeles Police Department from providing optimum levels of these vital services.

Realizing indefinite fiscal constraints, the chief of police and top-level police managers conceived a strategy to provide alternate funding for the department's crime prevention programs. The strategy was predicated on the long-standing principle of "people working with police." It centered on the importance of public involvement in working toward the common community goal of preventing crime. The strategy called for the development of a citizen/police organization. This organization, or council, would operate under the complete endorsement of and affiliation with the police department. However, the council would be independent from the department itself.

Chief Gates

The objectives were twofold from the outset. One, the council would act as an effective fundraising mechanism, legally empowered to accept contributions from the community. Two, the council would act as a catalyst in the three-way partnership between the police, the public, and the business community.

Crime Prevention Advisory Council

The starting point for building an effective advisory council began with identifying and selling the idea to those individuals or groups who, if actively in support of the program, would ensure its success. In mid-1984, a founding group or "kitchen cabinet" was formed to explore the possibilities. This "kitchen cabinet" included the chief of police and several key citizens from the community. These key citizens were well-established and trusted supporters of law enforcement. The group held several preliminary meetings to chart a specific course of action.

Fortunately, the Los Angeles area is home to many prominent people from the business community, the sports world, and the entertainment industry. A concerted effort was put forth to gain the support of influential persons within these professions which, in turn, would offer ready-made lines of communication to generate community interest and support for crime prevention projects. Consequently, an ideal vehicle for accomplishing the alternate funding strategy would be the logical result.

A key factor in creating a citizens' advisory council would be in forming a nonprofit, tax-exempt corporation to administer the funds which were raised. This would provide an added tax-savings incentive for group members and citizens so inclined to make the Los Angeles Police Department the beneficiary of their generosity.

A platform was adopted to enroll additional successful individuals to accept the work, responsibility, and personal commitment that would be needed to get the program "off the ground." The platform was based on the belief that professionals with outstanding reputation and name recognition would be able to exert influence with their colleagues, associates, and friends to create a network which would eventually reach the entire spectrum of the community. In short, a "chain" approach would be used to create a council diverse enough to accomplish the many tasks which would be required.

Several motivating factors were discussed, examined, and adopted as integral to the recruitment efforts. One, the members of the council would play a significant role in shaping the composition and direction of crime prevention activities within the city. Two, the working relationship between the police and the community is uniquely interesting and dynamic; therefore, participation in the organization would be especially stimulating. And three, membership in the council would afford a measure of prestige.

Additionally, a set of qualifications was established for target individuals based on the following criteria:

—Commitment of allegiance to the philosophy that the prevention of crime and drug abuse is one of the most important social issues facing our community;

—Impeccable reputation and excellent name recognition within the community;

—Specific capabilities essential to the specific operation of the or-

"The Crime Prevention Advisory Council is one example of how managers can 'do more with less' now and in the future."

ganization (not required of every member), for example, attorneys, accountants, corporate financiers, etc.;

—General qualifications of experience and understanding, as well as access to resources in areas of crucial importance to the strategic goals of the council, e.g., fundraising, direct mail campaigning, publicity, advertising, and mass media;

—The ability to make an appropriate time commitment toward the accomplishment of the council's goals; and

—Prior involvement in crime prevention and/or community service was considered desirable, although not absolutely necessary.

From the very beginning, the concept of a "chain" approach produced overwhelmingly positive results. Key individuals were identified and recommended by the "kitchen cabinet" as being committed to the crime prevention mission. As anticipated, their enthusiasm and participation only had to be enrolled. Also, and of extreme importance, the members of the "kitchen cabinet" committed to lead the way by each personally contributing substantial amounts of "seed" money. In-kind services of lawyers and accountants were immediately donated, and the wheels were set in motion to legally incorporate as the Los Angeles Police Crime Prevention Advisory Council.

The size of the corporate board of directors depended on the number of individuals who could be recruited. From the beginning, recruitment indications exceeded all expectations as the number of highly qualified and interested persons seemed limitless. As a matter of practicality, fewer than five positions would not accommodate the number of exceptional individuals who expressed wholehearted commitment. Ideally, the board would require enough positions to provide a membership with broad and varied backgrounds and viewpoints. Since the Crime Prevention Advisory Council, as envisioned, would be an ongoing enterprise, enough positions would be needed to provide incentive for interested individuals to attain directorship status in the future. Therefore, a 10-member board, all of whom are civilians with the exception of one Los Angeles Police Department staff officer, was established. Bylaw provisions were made for potential expansion to a maximum of 19 board directors.

Once convened, the board itself decided on its own standards of membership performance, when and how to terminate the services of board members who did not meet their obligations, and a plan for its own continuity and succession. As in the initial planning, the board of directors continued to define the specific goals and objectives of the newly formed Crime Prevention Advisory Council. This allowed the board to then draft and adopt articles of incorporation and to petition for tax-exempt status that, when granted, would generate funding.

In order to increase the efficiency and fundraising abilities of the Crime Prevention Advisory Council, the initial "chain" strategy was put into effect by creating an "executive committee." Membership on the executive committee was based on board of director nominations in accordance with the delineated criteria. Seventy-two people, including physicians, top entertainment industry executives, sports world dignitaries, philanthropists, accountants, advertising and publicity experts, mass media executives, and lawyers, were named to the executive committee. This executive committee was then formed into subcommittees to identify methods for fundraising and to identify enhancement programs of special interest or need. The special expertise and/or resources possessed by or available to the individual members were documented for future use.

In late 1984, a general meeting of the entire council was held. Presentations were made by the chief of police, as well as key leadership within the council itself. The goals and objectives of the council were reaffirmed, and the expectations of the executive committee members were clearly delineated. Each executive committee member was expected to "give or get" a minimum level of financial support, specialized services, or resources on a yearly basis.

The Crime Prevention Advisory Council reached fruition by the end of 1984 and launched into 1985 with tremendous success. In the few months following the initial meeting of the entire council, board and executive committee members contributed more than $178,000 in "seed" money for the Los Angeles Police Department's crime prevention programs. During 1984, the council members were responsible for the printing of over 500,000 crime prevention brochures in several languages, many of which reached thousands of visitors during the Summer Olympics held in Los Angeles. More than 400 bus bench advertisements, valued at $15,000 per month, were donated and placed in high visibility locations throughout the city.

In 1985, the council's public awareness activities started with a huge "grass roots" direct mail promotional campaign which brought valuable crime prevention information into the homes of over 30,000 residents. The council was also responsible for a second massive bus bench campaign stressing "L.A.'s the Place, But Not for Crime," as well as Neighborhood Watch and Anti-Drunk Driving themes.

A large advertising company donated its services to develop a comprehensive advertising campaign in support of the DARE Program. Many other local advertising companies, major corporations, and mass media sources have pledged their support for this campaign.

The council has been responsible for the printing of more than 1 million crime prevention brochures and has obtained valuable equipment for the department, including automobiles, phone answering machines, photo copying machines, etc. Through the council, several major corporations have made sizeable grants to the department. To date, the council has raised nearly $1 million, which does not include the donation of more than $400,000 worth of in-kind services.

The prospects for 1986 are extremely promising. The council is currently planning a major fundraising/entertainment event that would normally cost hundreds of thousands of dollars. In this case, however, very little cost will be incurred, and the entire proceeds, an estimated $750,000, will be given to the department for crime prevention programs. The council will also underwrite the 1986 Anti-Drug Abuse Los Angeles Dodgers Baseball Card Program and has pledged funds to cover a substantial part of the cost of 10 police officers for the DARE Unit.

While the council actively seeks to meet critical short term crime prevention needs, its long-range goal is to establish a significant capital base fund which will enable it to provide substantial funding for the department's yearly crime prevention requirements for decades to come.

Conclusion

Police chief executives will continue to be faced with reductions in funding and increased demands for accountability, information, and services. They will not be able to sit idly by, but must devise new operating styles that effectively deal with increasing demands and concomitant diminishing resources.

There can be no doubt that police efforts to achieve a greater degree of citizen involvement are the single most important means available for dealing with crime. The Crime Prevention Advisory Council is one example of how managers can "do more with less" now and in the future.

This discussion of an actual alternate funding model to enhance crime prevention programs is based on a proven technique. Although substantive issues may vary greatly from one police agency to another, the change process outlined contains definite basic principles, sequence, and structure that can ensure success.

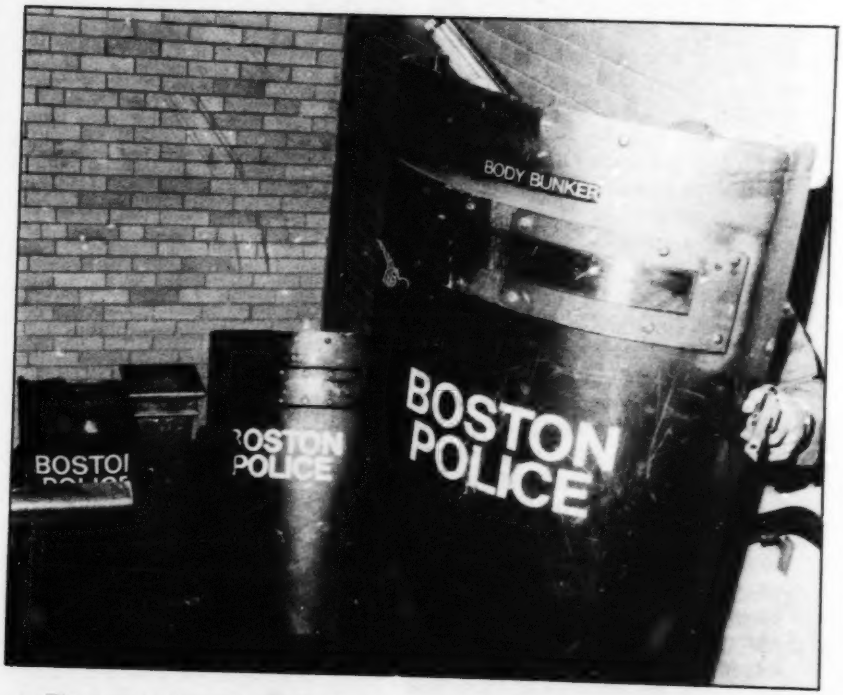
The Crime Prevention Advisory Council has been a major success story. It has proven highly successful not only as a catalyst in the essential "partnership" but also for fostering the kind of community mobilization which is absolutely vital for the Los Angeles Police Department to make meaningful progress toward the accomplishment of its basic mission.

The program requires a great deal of energy and commitment from all levels of the police organization, as well as the involved citizenry. Assertive leadership is necessary to maintain enthusiasm and active participation. It is hoped that this program will serve as the foundation for the implementation of similar programs to take police agencies from the past, through the present, and on into a most challenging future. FBI

Entrance and Apprehension Teams

"... [specialized apprehension teams] ... are strictly what they claim to be ... and take no part in prior or subsequent investigations of the incident."

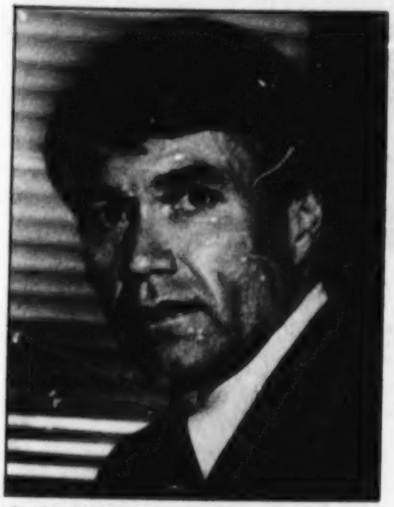
By
LT. DET. JOHN J. DALY
Homicide Unit
Police Department
Boston, MA



The arrest of armed and dangerous individuals has always been a problem for the police. For the most part, it is done on an "ad hoc" basis by both uniformed and plainclothes officers, usually with a minimum of planning. These types of arrests often cause officers to experience a sense of "macho." Many believe that it is the "bad guy" against the police department. Officers resent any insinuation that they cannot prevail over these individuals. This is an image which is conveyed by movie detectives in situations where they capture and shoot as many as 20 persons singlehandedly. As a result of this image, officers who possess warrants to arrest or search believe that it is imperative that they make the arrest personally. Otherwise, their stature will be lessened in the eyes of other officers and they will suffer a loss of self-esteem. In order to make these arrests or searches, an officer may take unnecessary chances which endanger both himself and his fellow officers, as well as suspects and innocent civilians.

Many times, I have discussed with police officers the tactics of entering a house or building known to be occupied by an armed, dangerous criminal. Since each incident was different, as were the officers involved, our planning would be of the simplest nature. Yet, some officers would actually refuse to wear bulletproof vests, somehow thinking this would reflect on

Detective Daly



Francis M. Roache
Commissioner

their manhood. Invariably, the actual execution of the warrants would be chaotic, and it was just plain luck that no one was injured.

This was the situation in the Boston Police Department until 2 years ago. At that time, the commander of the department's Bureau of Special Operations, with the support and endorsement of the police commissioner, planned and assembled a number of specialized apprehension teams. These five separate teams can operate independently, in concert, or simultaneously. They are trained and equipped to enter any building or structure peacefully or forcefully, if necessary, depending on the situation. The officers on these teams are volunteers who are trained to perform a certain function of the team.

These teams are available on a 24-hour basis to both branches of the department—uniform and detective. They are strictly what they claim to be—"a specialized entrance and apprehension team"—and take no part in prior or subsequent investigations of the incident. As soon as the area is secured and the suspects are placed in custody, the team leaves the scene. Their names do not appear on the arrest forms, nor do they take credit for arrests or seizures. Investigating officers remain in control of their cases, and no conflict develops between the apprehension team and the investigating officers.

The teams generally consist of six officers, one of whom is the team leader. During an entry, two officers, wearing vests, are the "sledge men," who stand on either side of the door to be entered. The sledge officers are familiar with the different types of security devices, locks, and bars and know where to strike a door for the purpose of gaining entry. Behind these officers are three other officers carrying ballistic shields. The middle officer, the first through the door, carries in his weak hand a 4-foot ballistic shield with a view port; the other hand holds his service revolver. Following him are two other officers, each holding 3-foot ballistic shields with view ports in their weak hands and service revolvers in their strong hands. The second and third officers move immediately to opposite sides of the room (one left, one right) and all three sweep the area. They are followed into the area by a sixth officer on the team who is not carrying a shield but is wearing a vest and is armed with a shotgun. Each officer who enters the room has at least two pairs of plastic handcuffs and carries on his belt a 100,000-candlepower lamp.

The three officers who enter first carry two revolvers, one in their hands and a second in a special holster strung on their chests behind the shield. Thus, in the event of an exchange of gunfire, each officer could completely discharge his gun, drop or holster it, and have a fully loaded gun immediately available.

These teams can enter any door in 3 seconds and completely control a room within 10 seconds. Once the premises are secured, the case officers enter and take custody of the prisoners and conduct searches, if necessary.

The shields carried by the officers are called "body bunkers," which weigh about 30 pounds and cost approximately $2,300 each. They are not designed to be carried for a long distance, but to give officers every protection available. There are, however, similar shields which weigh as little as 9 pounds. The shields will stop a wide range of bullets, and for this reason, officers feel very secure behind them.

Officers involved in these activities need to be provided information on the building they are to enter. They should know the type of construction material used in the building, the exact location of the doors, the types of doors, style of locks, the number of floors in the building, the apartment numbers by floor, house numbers, etc. Members of the team should also have knowledge of how buildings are constructed so that they can take advantage of the weakest areas.

The most recent use of the specialized entrance and apprehension teams provides details of a typical operation. The Homicide Unit needed to use the team with respect to an armed suspect. A call was made to the commander of the Special Operations Bureau, who suggested that members of this team and homicide officers meet at a secluded location an hour before the desired time of entry. This was in order to preserve the confidentiality of the operation. Both units agreed to meet at an isolated city garage at 5:30 a.m. Once there, the team was briefed on the target's name and proclivity. Using a blackboard, investigating officers made a sketch of the location and structure, informing the entrance team of all doors and barricades. At 6:30 a.m., the target location was struck and accessed within the team's 3-second schedule. The premises were secured within 10 seconds. No one was injured, and the operation led to the arrest of an individual wanted for murder. The team promptly left the area, and the detectives continued their investigation.

In this and the vast majority of entrances, no sophisticated equipment was needed. There are times, however, when other equipment is needed to gain entrance. Portable cutting torches are available to breach metal doors and carriers. Carbide-tipped saws and other power tools can cut through any material. Listening devices can be placed on walls to determine the exact physical location of suspect(s) and to determine what is being said or done. In the event of an extraordinary situation, there is an armored vehicle available to the team, which has the capability to penetrate building walls.

The specialized teams arrive at the scene in a small truck equipped with additional armor, weaponry, lighting, and a portable generator. When the teams enter the premises, their equipment is carried in specially constructed, padded suitcases so that the contents are secure.

The concept of entrance and apprehension teams has been thoroughly tested in Boston. They have been used approximately 150 times in every conceivable situation, and in every instance, they have accomplished their objective without an exchange of gunfire or one injury.

The Freedom of Information Act

An Overview for Law Enforcement Professionals

"The FOIA applies to virtually all records compiled by agencies of the Federal Government, but does not govern records in the possession of the Congress, the courts, or the Executive Office of the President."

By
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The Freedom of Information Act (FOIA), 5 U.S.C. § 552, was enacted in 1966 after a decade of public debate. Although public use of the act was relatively rare initially, the FBI alone received over 15,500 requests in 1985, requiring the full-time efforts of over 350 employees to process.

The FOIA applies to virtually all records compiled by agencies of the Federal Government, but does not govern records in the possession of the Congress, the courts, or the Executive Office of the President. All information which does not fall within nine specific exemptions from disclosure is required to be released upon request by any person, institution, association, or corporate entity. It should be noted that while the exemptions authorize withholding of material, they do not prohibit its release. The agency may choose, as a matter of administrative discretion, to release material which could otherwise be protected, unless the disclosure of such material would be prohibited by another statute.[1]

The FOIA specifically excludes from mandatory disclosure material which falls within nine categories, described generally as follows:

1) Classified national security information. This exemption will be discussed in more detail below.
2) information which is purely internal and of no concern to the general public, or material which, while of some public interest, would, if disclosed, jeopardize an agency's ability to fulfill its statutory obligations. This provision has been successfully employed to protect portions of FBI and other law enforcement agencies' manuals, the disclosure of which would harm law enforcement efforts by revealing standard investigative procedures.
3) Material whose release is restricted or prohibited by another Federal statute, or in certain cases, specific material which another statute permits the agency to withhold in its discretion. For example, Federal income tax return information compiled by the IRS cannot be disclosed to third parties under the FOIA. An agency regulation alone is insufficient to exempt the material from the Freedom of Information Act.
4) Commercial or financial information submitted to the Government by businesses or individuals.

Mr. McIntyre

Such material is exempt if its disclosure would either impair the ability of the Government to obtain similar information in the future or cause substantial competitive harm to the submitter.

5) Material which would be legally privileged from discovery in the course of litigation with the agency. This exemption is used primarily to withhold drafts of documents, recommendations to superiors, and other information which would reveal agency internal deliberative procedures, attorney-client confidences, and litigation strategies.
6) Information which would cause a clearly unwarranted invasion of personal privacy, if released.
7) Investigatory records compiled for law enforcement purposes. This exemption will also be analyzed below.
8) Information regarding bank audits by Federal officials.
9) Geological and geophysical information and data, including maps concerning oil wells.

It should be noted that these exemptions are not mutually exclusive. The same information may be exempt because it is classified national security information (exemption 1), provided by a confidential source during a criminal investigation (exemption 7(D)), the release of which would invade the privacy of some other individual (exemptions 6 and 7(C)). Thus, even if the material fails to fully meet the requirements of one exemption, it may well satisfy the criteria of another exemption.

Even where a page contains exempt information, other information on the page which is not excluded from disclosure must be released if it is reasonably segregable from exempt material. A requester who believes that an agency is withholding information which does not properly fall within the nine enumerated exemptions has a right to file suit in Federal court to compel release of the contested material. To date, well over 2,000 such lawsuits have been adjudicated, and this figure does not include numerous other cases which were filed, but resolved or dropped before the court ruled on the issues.[2] Even so, some questions regarding the proper application of FOIA exemptions remain unresolved, and new issues regularly arise. In a FOIA suit, the judge is not required to defer to the agency's prior determination, except possibly in the case of classified national security information. Rather, the court is obligated to review the material as if it were now being evaluated for withholding for the first time.

Two exemptions are of primary concern to law enforcement agencies. Exemption 1 of the act authorizes the withholding of all documents properly classified for national security purposes. Classification of U.S. records is governed by an Executive Order issued by the President. While these orders may be modified from administration to administration, the basic provisions remain essentially intact. Executive Order 12356, presently in effect, specifically provides that "unauthorized disclosure of foreign government information, the identity of a confidential foreign source, or intelligence sources or methods is presumed to cause damage to the national security." Thus, under appropriate circumstances, information supplied to the FBI and other Federal law enforcement agencies by foreign police will be protected under this exemption.

Where a requester files suit in court to compel release of classified information, the Federal courts are entitled to review the classified material, but only to determine whether the information does, in fact, properly fall within the criteria of the Executive Order in effect at the time the agency determination is made. Neither the party seeking the information nor his attorney are entitled to review the withheld material, and when explanations for withholding are considered too sensitive to be placed in the public record, they are made *in camera*.

In reaching its conclusion, the court is obligated to give great weight to the agency's determination as to what material would, if released, pose a threat to national security. As a practical matter, it is rare for a court to order the release of material which an agency has classified. Indeed, judicial opinions have repeatedly emphasized that this exemption "bars the court from prying loose from the government even the smallest bit of information that is properly classified." Equally significant is judicial recognition that information, which may appear innocuous on its face, may nevertheless qualify for protection if the information, when viewed in its full context, would have an adverse impact on the national security. In this same light, where the very fact that the information requested has been compiled by the Government is sensitive, the Government is entitled to refuse to confirm or deny even the existence of the information. Thus, the FBI routinely refuses to answer inquiries concerning wiretaps installed for national security purposes.

Exemption 7 of the FOIA is specifically designed to protect sensitive law enforcement records. Originally, this provision effectively exempted from disclosure all investigatory files. In 1974, however, in the aftermath of the Watergate scandal, Congress narrowed this exemption to permit nondisclosure of investigatory records only if withholding could be justified by one of six specified types of harm. The provision, in its entirety, now exempts from disclosure:

> "Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel." 5 U.S.C. § 552 (b)(7)

As can be seen from the wording of the statute itself, this exemption protects a wide range of law enforcement-related material.

Records compiled in conjunction with civil as well as criminal law enforcement proceedings fall within the meaning of "investigatory records." Also, the exemption is not restricted to investigations of Federal violations, but encompasses the activities of Federal agencies aiding in the enforcement of State and even foreign laws. Although material acquired in connection with an agency's routine monitoring function is not normally considered to be "investigatory," once an agency focuses on specific possible violations, the "investigatory records" threshold is satisfied. Thus, routine oversight by the Drug Enforcement Administration (DEA) of pharmaceutical production would not fall within the confines of exemption 7. Where, however, allegations or evidence of drug manufacturing violations is received by DEA, information obtained as a result of that agency's subsequent investigation into the possible violations would qualify as "investigatory records." This is true even if no actual violations are ever uncovered and no legal enforcement proceedings are ultimately undertaken.

Precisely what constitutes an investigatory record compiled for law enforcement purposes has been the subject of judicial interpretation on a number of occasions. One viewpoint holds that all records compiled by a criminal law enforcement agency in furtherance of its official duties inherently qualify as "compiled for law enforcement purposes." Other courts have adopted a slightly less expansive approach and require a showing of some legitimate connection between an agency's law enforcement function and the specific investigation at issue. Even under the more-narrow interpretation, a law enforcement agency's records will qualify as "investigatory records compiled for law enforcement purposes" so long as an agency is able to identify a possible violation of a specific statute within its enforcement jurisdiction as the basis for its investigation. Of course, this is only the beginning of the inquiry for FOIA purposes. The agency must further demonstrate that its disclosure of the records sought would result in one of the harms set forth in the six subsections on exemption 7.

". . . the courts have consistently recognized that the identities of Federal, State, local, and foreign law enforcement officers can be routinely withheld under [exemption 7(C)]."

Exemption 7(A) authorizes the withholding of investigatory records whose release would interfere with law enforcement proceedings. This has been recognized as a broad, but temporary, withholding authorization. Interference can be potential and need not be concretely demonstrated. Once the law enforcement proceedings are completed, however, exemption 7(A) becomes entirely inapplicable. The requester is then free to make a followup request, and the agency will be required to justify withholding under other subsections of exemption 7 or under other FOIA exemptions. Determining when the investigation has concluded is not always simple. An investigation which is dormant (for example, while a fugitive is being sought) remains eligible for exemption 7(A) protection. Finally, while an investigation may be completed with respect to certain individuals, it may remain active as to other suspects.

Exemption 7(B) is aimed at avoiding prejudicial pretrial publicity and was evidently enacted to ensure that the FOIA's disclosure provisions would not conflict with the sixth amendment of the U.S. Constitution, which guarantees defendants a fair trial. Interestingly, the protections provided by the other subsections of exemption 7 appear to have fully accomplished this purpose, as exemption 7(B) has rarely been invoked.

Exemption 7(C), which protects against unwarranted invasions of individuals' privacy, at first glance, appears to duplicate the protection afforded by exemption 6. However, exemption 6 operates only in the face of *clearly* unwarranted invasions of privacy, while exemption 7(C) protects records whose release would produce an unwarranted invasion of privacy. The courts have regarded the omission of the word "clearly" in the exemption 7(C) language as an indication that lesser privacy invasions will suffice for withholding personal information in the context of law enforcement investigations. National, State, or corporate entities are not regarded as having privacy rights, however, and neither exemption 6 nor 7(C) will protect their privacy, except in the case of a corporation which is so small that its activities can be identified exclusively with its owner.

In all cases, in reviewing withholdings under exemption 7(C), the court first identifies the extent and nature of the privacy interests threatened by disclosure and the public interests, if any, which would be served by release. The court then balances the privacy interests against any public interests and will sustain the agency's withholding if it concludes that the individual's privacy interest is of greater magnitude than the public interest. Although the need to engage in this balancing sometimes makes the outcome of exemption 7(C) withholdings unpredictable, the courts have consistently recognized that the identities of Federal, State, local, and foreign law enforcement officers can be routinely withheld under this exemption. Consequently, exemption 7(C) is normally invoked to protect the identities of FBI Agents and other Bureau employees. (Because they hold positions of some public prominence, identities of senior, supervisory law enforcement personnel, such as FBI Special Agents in Charge, are not ordinarily withheld under exemption 7(C), but as will be discussed shortly, such senior officials can always be protected under exemption 7(D) if they act as confidential sources.) Judges have frequently observed that the potential for harassment of law enforcement officers clearly tips the privacy interest in favor of nondisclosure. Only where there are not merely the perennial allegations by criminals of misconduct by law enforcement officers, but specific credible evidence that improprieties actually occurred, have courts occasionally seen fit to release the officials' names.

In the case of third parties who are mentioned in criminal investigatory files, the case law clearly protects such persons when they are investigative targets or associates of targets and no charges are ultimately filed against them. In such cases, Federal law enforcement agencies routinely refuse to even confirm or deny that they have records on such persons and have won the endorsement of the courts for this practice. Even where charges are ultimately brought, much personal information about the subject may remain confidential, unless disclosed in court proceedings. Obviously, any material readily available in the public record, either through court filing or press releases, can lose the protection of this exemption. There are, of course, instances in which both public and privacy interests are great, as in the case of notorious criminals or of public figures, and it is not always easy to predict how a court may ultimately balance these counterveiling interests. But in the vast majority of cases, exemption 7(C) has proven wholly adequate to protect sensitive personal information.

It should further be noted that exemption 7(C) generally protects only living persons on the principle that an individual's right to privacy dies with him. However, in some instances, information of an exceptionally personal nature which could cause extreme distress to surviving family members if disclosed may be withheld. The mere fact that records are old does not diminish the protections of exemption 7(C), so long as it appears possible that the individuals discussed could still be alive.

For the law enforcement community, exemption 7(D) probably represents the most important of all FOIA exemptions. This exemption protects the identities of all confidential sources, and in the case of national security or criminal law enforcement investigations, protects all information furnished by the confidential source. In enacting this provision, Congress clearly recognized the fundamental role played by sources in efficient law enforcement operations, and the courts have been extremely reluctant to force the disclosure of any material which would in any way reveal confidential sources.

The courts have consistently given an appropriately broad interpretation to the term "confidential source." The phrase is intended to be construed more broadly than "informant" and applies to anyone who gives information to law enforcement authorities with the expectation that it will not be unnecessarily divulged. The interviewing officer need not expressly promise confidentiality to the source. Indeed, in most instances, confidentiality is implied under the surrounding circumstances. For example, it is clear that anyone providing information regarding serious criminal activity does so expecting that the fact that he supplied incriminating information to the police will not be disclosed. While at present there is a somewhat technical dispute as to the specific legal standard which must be met in order for confidentiality to be implied, it seems clear that at least in the context of a criminal investigation, exemption 7(D) protection is appropriate for virtually anyone who provides information.

Similarly, the term "source" has been construed so broadly that it can potentially encompass nearly everyone. Unlike under exemption 7(C), which does not protect corporate or institutional privacy, corporations and institutions *do* qualify for protection as sources. State, local, and foreign law enforcement agencies and their officers (*including* senior supervisory personnel) are all routinely held to be confidential sources. Indeed, because of the working relationship between Federal law enforcement officers and their counterparts at the State, local, and international level, there is a virtual presumption that such police entities will receive source protection. Of course, private citizens and even most government employees can also be sources. Only *Federal* law enforcement officers cannot be sources, because providing information on suspected violations of the law is the specific objective of their official duties. If, however, Federal officers are merely transmitting information which was originally provided by a source, the source's protection is not lost merely because his information passed through Federal law enforcement channels.

To illustrate the actual operation of this distinction, a surveillance report by an FBI Agent of his direct observations of the activities of a suspected violator would not be accorded exemption 7(D) protection (although it might be protected under other exemptions). On the other hand, if the details of the investigative target's activities have been learned through an interview of a private citizen, or have been provided by a non-Federal police organization, the information will be protected under exemption 7(D) when subsequently included in the Agent's investigative report.

The first clause of exemption 7(D) protects only the identities of confidential sources, but extends this protection to both civil and criminal enforcement proceedings. Again, in recognition of the extreme sensitivity of sources' identities, the courts have not hesitated to approve the withholding of any material which could reasonably be expected to lead to their identification. Thus, in instances where only one or a few individuals would have access to the information provided by the source, it is justifiable to withhold all of this material to prevent the inadvertent disclosure of the source's identity.

In the case of a national security or criminal investigation, the second clause of exemption 7(D) protects not only the identity of the source but all source-provided information as well. One of the most recent court decisions on this issue illustrates how sweeping this protection can be. The sole document sought from the FBI by the FOIA requester was a photograph of a public demonstration. Although it was established that the photograph had been provided by a confidential source, it was equally evident that disclosure of the photograph would in no way compromise the source. Anyone of dozens, perhaps hundreds, of people could have taken the picture. Nevertheless, the court unequivocally held that the photograph could be withheld under exemption 7(D) simply on the basis that it had been supplied by a confidential source in connection with an FBI criminal investigation.

It can be seen that once exemption 7(D) applies to a source or source-provided information, its protections are absolute. In contrast to exemption 7(C), in which privacy protection generally terminates at death, a source's identity and information remains protected even after death. The courts

"Where the sensitivity of the material sought is apparent, the courts have frequently expanded the protections of the act's exemptions to effectively preclude disclosure."

have reasoned that such continued protection is essential to allay sources' fears of reprisals against their friends or families after the source's death. Similarly, the disclosure of a source's identity in no way mandates the release of the information the source provided, and conversely, publication of source-provided material does not render withholding of the source's identity indefensible. Moreover, an unauthorized disclosure of information pertaining to sources (i.e., a "leak") does not constitute a waiver of this exemption's protections.

Law enforcement techniques and procedures not known to the general public are exempt from disclosure pursuant to exemption 7(E). In the hearings preceding its enactment, Congress specified that this exemption did not apply to such well-known, routinely used techniques such as fingerprints, lie detectors, or ballistics tests. But even these investigative tools may qualify for protection if they are used in conjunction with other nonpublic techniques or are employed in an unusual fashion. In addition, particular details of well-known techniques are also safeguarded by this exemption. Thus, the specific equipment used in electronic surveillance, the actual questions posed in a lie detector examination, or the particular criteria set forth in hijacker profiles all deserve protection under this exemption. Additionally, a recent court decision has held that the Secret Service properly withheld the weight, specialized equipment, and contract specifications pertaining to two armored limousines purchased for the President. The Court found no basis to distinguish the "protective" techniques employed by the Secret Service to prospectively combat crime from the investigative techniques used after a crime has been committed. Obviously, it would be self-defeating to list here most of the techniques which do fall within the protection of exemption 7(E), but from the previous example, it is evident that all reasonable claims of exemption under this provision are accepted by the courts.

Exemption 7(F) protects information which would endanger the life or physical safety of law enforcement personnel. Typically, this exemption is employed, often in conjunction with exemption 7(C), to safeguard the identities of certain Federal law enforcement officers, particularly undercover agents. As previously noted, the FBI ordinarily excises the names of Agents and employees under exemption 7(C) alone. Where, however, there is a realistic possibility of retaliation, use of exemption 7(E) for Agents' and employees' identities would be entirely appropriate. Since protection of the identities of State, local, and foreign law enforcement officers is already fully ensured through the use of exemption 7(D), exemption 7(F) is not usually invoked to protect non-Federal police. In a somewhat novel approach, the use of this exemption to withhold information concerning the manufacture of homemade weapons was also recently sustained by a court. The court reasoned that such weapons could—and logically would—be used against law enforcement officers if the details of their construction were publicly revealed.

Summary

These latter examples of judicial interpretation of the FOIA, approval of exemption 7(E) to protect Presidential security equipment, and the extension of exemption 7(F) to cover weapons-manufacturing information perhaps best illustrate the attitude of the Federal courts toward the Freedom of Information Act. Where the sensitivity of the material sought is apparent, the courts have frequently expanded the protections of the act's exemptions to effectively preclude disclosure. The FOIA is valuable because it permits the public to gain some insight into the operations of the massive Federal law enforcement community. But certainly the system is not perfect, and national law enforcement agencies would doubtlessly prefer to be relieved of their considerable burden of processing records under the act. In most instances, the broad protections afforded by FOIA exemptions for law enforcement records, coupled with the generally intelligent and responsible review of FOIA withholdings by the courts, have not resulted in legitimate law enforcement operations being hindered by the act. In a limited number of situations, however, disclosure of information through the FOIA could have an adverse effect on law enforcement activities. The Justice Department maintains close contact with the FBI and all Federal law enforcement agencies on these issues and is keenly aware of the hazards which could develop through release of sensitive investigatory information. Presently, Justice is seeking legislative amendments to the FOIA to eliminate any dangers to law enforcement operations which could possibly result from the FOIA's disclosure requirements.

Footnotes

[1] Stephen P. Riggin, "U.S. Information Access Laws; Are They a Threat to Law Enforcement" *FBI Law Enforcement Bulletin*, vol. 53, No. 7, July 1984, p. 13.

[2] More-detailed information, including case citations, is available through the U.S. Department of Justice publication, *The Freedom of Information Case List*, for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Motorcycle Gang Investigations

A Team Effort

"For law enforcement to continue to be effective in monitoring the activities of motorcycle gangs, personnel within all agencies must become involved."

By
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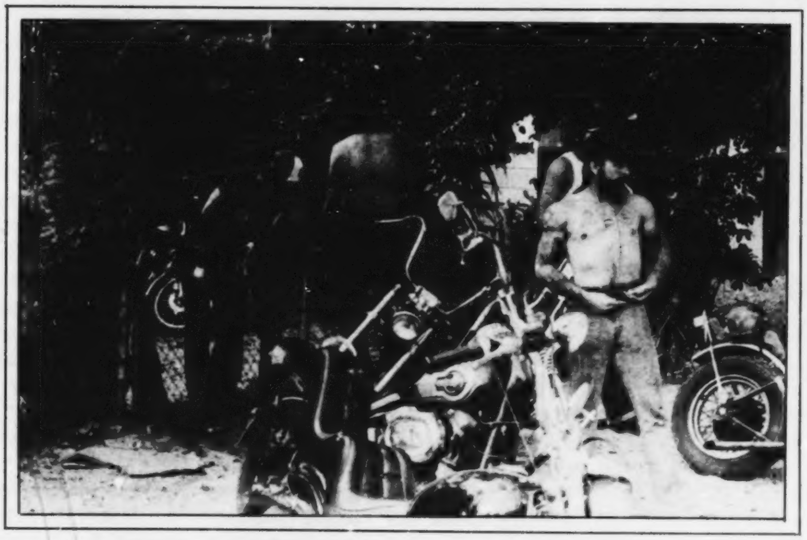
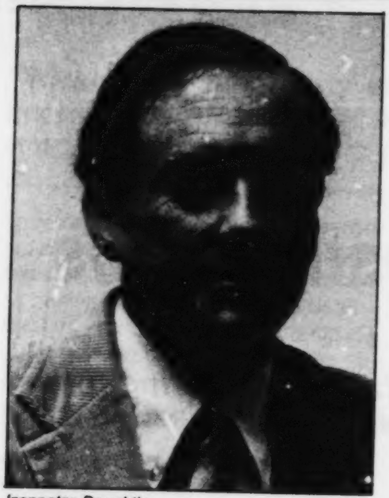


It was 7:45 a.m. on October 15, 1976, when nine law enforcement officers from the Hillsborough County Sheriff's Office and the Tampa, FL, Police Department departed the staging area en route to the clubhouse of the Outlaws motorcycle gang to execute a search warrant. Upon arriving at 8:00 a.m., a police detective, who was the search warrant affiant, approached the front door along with several members of the search team, while others moved to the rear of the house to take up position. All was quiet, except for a few barking dogs. By 8:05 a.m., what was expected to be a routine execution of a search warrant had erupted in gunfire, and three sheriff's deputies lay wounded, one critically. The detective was also critically wounded and remains paralyzed today. Following this incident, law enforcement officers in



Inspector Doughtie

Robert R. Dempsey
Commissioner

Florida reevaluated their approach in dealing with motorcycle gangs.

Since the late 1950's, starting with a movie entitled "The Wild Ones" featuring Marlon Brando, motorcycle gangs have continued to be used as the focal point in the overall plots of movies. These gangs have been portrayed by the movie industry as a group of bunglers and drunks, an image that has come to be accepted by the general population. This, however, is not the case.

Motorcycle gangs began to form in the late 1940's and have grown in numbers since then. These gangs are involved in almost every area of crime known to law enforcement, but are particularly active in narcotics trafficking and prostitution.

Currently, four major motorcycle gangs control the "biker's world" in the United States—the Hells Angels, Outlaws, Pagans, and Bandidos. Both the Hells Angels and the Outlaws are international groups with chapters located in the United States and Canada. Chapters of the Hells Angels also operate in Europe.

In Florida, the Outlaws first set up operation in Ft. Lauderdale in the mid-1960's. They became known in the communities in South Florida overnight, when they nailed a young lady to a tree. Since then, they have ruled the Florida "motorcycle gang world," establishing chapters in Tampa, Orlando, and Jacksonville and waging a continuous battle with rival gangs who come into Florida and trespass on their turf.

In 1974, three members of the Hells Angels came to the Ft. Lauderdale area and were executed for doing so. Each was shot in the back of the head and dumped into a flooded rock pit. It took law enforcement 4 years to solve these murders, and even today, warrants are still outstanding for one Outlaw who was part of the execution team. The mobility of the gangs have enabled members to travel from chapter to chapter throughout the United States and Canada to elude arrest.

Currently, four members of the Outlaws are on "death row" at Raiford State Prison, with many other members being held for life sentences. This pattern of violent behavior has continued through the years, while law enforcement has been unable to effectively close down the gangs' operations.

Law enforcement has continued to attack motorcycle gang crime on a local basis. In many instances, investigations were reactive and little, if any, proactive intelligence was gathered. During the mid-1970's, a small group of investigators took it upon themselves to monitor the activities of motorcycle gangs. Out of necessity, as well as a deep concern for the problems these gangs caused in their communities, these law enforcement officers began exchanging information concerning gang activities. Efforts were made to identify known motorcycle gang members and to find a way to file and exchange this information with law enforcement agencies.

At this time, the Florida Department of Law Enforcement was contacted, and discussions began as to how this exchange of information could be implemented. From this informal "brainstorming" came the *Florida Motorcycle Gang Identification Book.* This identification booklet is distributed to every law enforcement agency in the State of Florida, as well as numerous out-of-state agencies, and copies are also provided to all Federal

Outlaws
Jacksonville

U.S. Marshals on a raid at the Jacksonville, FL, Outlaw club house

agencies on request. This document contains photographs and subject data on all motorcycle gang members who have been identified by law enforcement in Florida and has become a valuable tool in motorcycle gang investigation.

The effectiveness of the identification book depends on the participation of all agencies who have had contact with gang members. Agencies must make a special effort to forward the data obtained at time of arrest or contact for placement in the book. The *Florida Motorcycle Gang Identification Book*, which is updated yearly with supplemental reports sent to participating agencies, is a product of a successful "team effort" by all law enforcement agencies in Florida.

As communications on motorcycle gang activities improved among law enforcement agencies, other groups outside the traditional law enforcement community became involved. One such group was the Florida Intelligence Unit, which is an independent group of Florida law enforcement officers involved in gathering intelligence on organized crime groups. This information is then provided to participating police agencies for use in ongoing investigations, as well as proactive intelligence.

The Florida Intelligence Unit is currently comprised of 136 law enforcement agencies within Florida which meet every 4 months for an intelligence exchange. Several committees operate within the unit and specialize in specific crime areas, such as narcotics, organized crime, economic crime, and terrorism. A special committee was developed in the area of motorcycle gang activities approximately 4 years ago and is now 50 members strong. Through efforts such as this, the flow of information concerning motorcycle gangs continues.

The Florida Department of Law Enforcement began in 1982 a new program known as the Florida Intelligence Center (FIC), an on-line automated system service designed to establish and maintain an index containing profile and modus operandi data on suspected or known criminal subjects. Information to this system is provided by 329 municipal, county, State, and Federal agencies, with approximately 3,700 law enforcement representatives eligible to inquire and submit information into the system. A special crime classification has been designed into this system to identify motorcycle gang members and their criminal activities.

Florida law enforcement officers who investigate the criminal activities of motorcycle gangs have found the news media play an important role in keeping the community advised of the gang problem. Through indepth articles printed in several newspapers, the general public has become aware of the problems law enforcement faces while trying to investigate crimes attributed to motorcycle gangs. Several newspapers in the chapter cities have continued to print front-page articles on the Outlaws. This has also been true of local and national television news agencies in their coverage of events which relate to motorcycle gangs. Furthermore, the Florida Governor's Council on Organized Crime has in the past held public hearings on the illegal activities of motorcycle gangs within the State. Numerous gang investigators have provided hours of testimony before the council in hearings open to the public and news media. The law enforcement community and the news media can provide each other a service of equal importance if handled properly through good communication.

> ***"... law enforcement must continue working together to apply the 'team' approach whenever possible to insure that criminal motorcycle gang activities are stopped."***

For law enforcement to continue to be effective in monitoring the activities of motorcycle gangs, personnel within all agencies must become involved. Special training in motorcycle gang activities is offered to law enforcement agencies throughout Florida. This training is provided on request by law enforcement personnel who work on gang investigations on a regular basis. The Florida Department of Law Enforcement for the past 5 years has trained approximately 50 officers per month in the area of motorcycle gang investigations. Many of the officers who receive and offer this training do so on their own time, demonstrating that the interest in this crime area continues to grow and makes the training effort worthwhile.

Prosecution of motorcycle gangs has seen the most advances in recent years. Earlier, prosecution of these gangs in the State of Florida was almost entirely reactive. Due to a heavy case load and manpower shortages, time could not be spared for long-range cases. This situation became more difficult in 1979 when the State of Florida enacted racketeering laws styled after the Federal R.I.C.O. statutes. The local State attorneys did not have the time or personnel to become involved in a long-range racketeering case. Furthermore, few assistant State attorneys had an understanding of the new racketeering laws or experience to prosecute this type of involved and complicated case. Although a number of local cases were made against Outlaw members, ranging from murder to indecent exposure, this had little effect on the clubs as a whole. There was always another Outlaw to move into the chapter and take the jailed member's place.

Five years ago, a "statewide" investigation involving law enforcement agencies from every chapter city in Florida was attempted with little success. A racketeering case was put together, but no statewide prosecution could be obtained. The case was "downgraded" to a local case, and each jurisdiction became responsible for the prosecution of the case involving only its chapter city. The impact of a "statewide" prosecution was lost, and the Outlaws in Florida felt no pressure from the effort. In central Florida, an assistant State attorney who was assigned to the case and who had access to police reports, interviews, and lists of witnesses and confidential informants later became the defense attorney for an Outlaw member.

Even when faced with these problems, the law enforcement community continued its effort. Finally, in the early part of 1982, the scene began to improve drastically. The FBI field offices in Tampa and Jacksonville, the Tampa Police Department, the Consolidated Jacksonville Police Department, and the U.S. attorney's office in Tampa, assisted by other law enforcement agencies throughout the State, began working together to put together a Federal prosecution into the criminal activities of the Outlaw motorcycle club in Florida. By means of the Federal Witness Protection Plan and the assistance of U.S. marshals, potential witnesses were transported from city to city as needed. Three separate Federal grand juries were held in both Tampa and Jacksonville, with indictments being received in all three. Charges of white slavery, narcotics trafficking, and violation of Federal racketeering laws were brought against members of the Outlaws not only in Florida but in other areas of the United States. Trials were held in Tampa and Jacksonville, with all indicted being found guilty with the exception of one member. In all, 23 convictions were dealt the Outlaws in Florida, with numerous other warrants pending on members in hiding. Those convicted included high-level club members, such as regional and chapter presidents and other club officers.

This, however, is only the beginning, as efforts will continue to seek further prosecution. The law enforcement community in Florida has taken note of the impact the "Federal Outlaw Case" has had on gang activities and has presented the officers involved with the Law Enforcement Officer of the Year Award for the State of Florida.

The "pendulum" is now starting to swing in favor of law enforcement in Florida in relation to motorcycle gang investigation and prosecution. The Outlaw chapters in Florida are in turmoil with declining membership, loss of leadership, and fear of prosecution. The momentum for this reversal can be attributed to the "team effort" of local, State, and Federal agencies. For this reason, law enforcement must continue working together to apply the "team" approach whenever possible to insure that criminal motorcycle gang activities are stopped. FBI

The Constitutionality of Organizational Limitations on the Associational Freedom of Law Enforcement Employees

"Restrictions on the organizational associations of law enforcement officers are valid if they serve legitimate and substantial law enforcement interests."

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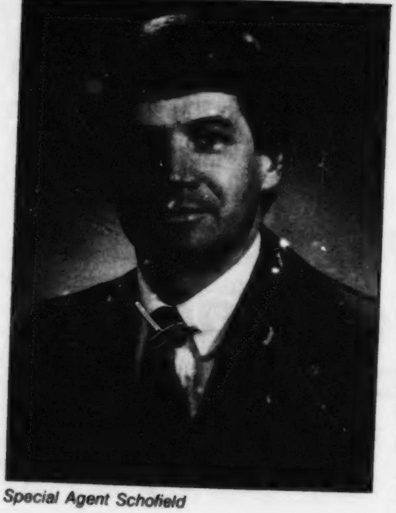
Freedom of association, though not explicit in the Constitution, is a judicially recognized right deriving constitutional protection from its nexus with freedom of speech and expression under the first amendment.[1] While courts agree that law enforcement employees enjoy constitutional protection against unreasonable restrictions on their associational freedom, it is often difficult to predict the precise scope of protection in particular situations, because reviewing courts are required in each case to assess both the seriousness of the associational infringement and the validity of governmental interests offered as justification for that particular infringement. This article examines the scope of associational protection afforded law enforcement officers under the first amendment in the context of patronage dismissals, union membership and other organizational affiliations, and personal associations. Because the constitutional standards in this area are still being developed by the courts, the recommendations subsequently offered reflect a careful attempt to balance legitimate managerial prerogatives with employee associational interests.

PATRONAGE DISMISSALS

It is particularly important for sheriffs and other law enforcement administrators to know whether any of their employees can be dismissed solely for reasons of political party affiliation without violating the constitutional freedom of association. The practice of patronage dismissals in law enforcement organizations has spawned litigation revealing differing views regarding the extent to which the first amendment limits the managerial prerogative of law enforcement executives to discharge employees because of their political party associations.

While it has proved problematic for courts to decide whether any law enforcement employees are subject to patronage dismissal, it is an accepted proposition that some public employees have no first amendment protection against politically motivated discharges.[2] For example, the President of the United States may, without offending the first amendment, dismiss

Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.



Special Agent Schofield

the Secretary of State for purely political reasons or for any other reason deemed politically expedient. The Supreme Court has decided two cases establishing constitutional parameters that limit patronage dismissals to so-called "political" jobs where partisan affiliation is an appropriate criterion for employment.[3]

Supreme Court Establishes Constitutional Limits

In *Elrod* v. *Burns*,[4] the Supreme Court expanded first amendment protection for public employees by ruling unconstitutional the widespread practice of patronage dismissals except for employees occupying "policymaking" or "confidential" positions. The case involved a suit brought by noncivil service employees of the Cook County, IL, Sheriff's Office who were discharged or threatened with discharge solely because they did not support the Democratic Party. Justice Brennan's opinion begins by identifying two consequences of patronage that he finds costly to first amendment interests. First, it places restraints on associational freedoms by coercing employees to affiliate with a political party not of their choosing.[5] Second, the free functioning of the electoral process suffers because patronage tips the electoral process in favor of the incumbent party and steers support for competing political interests.[6] He concludes that patronage dismissals are unconstitutional unless the government proves they further vital governmental interests by a means that is least restrictive of constitutional interests, and that the benefits gained outweigh the loss of protected rights.[7]

Justice Brennan also rejects the argument that efficiency requires employees of the same political party by observing that inefficiency inevitably results from the wholesale replacement of large numbers of public employees.[8] Patronage appointees are not necessarily more efficient just because they share the political views of the boss, and the prospect of dismissal following an election may actually constitute a disincentive to efficient performance.[9] While conceding a possible gain in governmental effectiveness where employees have an incentive to perform well in order to preserve a superior's incumbency, he characterizes such gains as marginal and notes that efficiency is attainable by the alternative and less drastic means of discharge for cause and increased use of merit evaluations.[10] Justice Brennan also concludes that partisan harmony necessary to ensure that representative government is not undercut by tactics obstructing the implementation of policies sanctioned by the electorate can be accomplished by limiting patronage dismissals to "policymaking" employees who are in a position to thwart the policies of the incumbent party.[11] He restricts the definition of "policymaking" employee to positions with broad responsibilities and concludes that government should bear the burden of proving that a particular job includes the formulation and implementation of broad goals and policy.[12]

In a subsequent decision in *Branti* v. *Finkel*,[13] the Court reaffirms *Elrod's* prohibition of routine patronage dismissals and also articulates a refined standard for determining when a particular job is exempted from that general prohibition.[14] The case involved a suit filed by assistant public defenders in Rockland County, NY, who were threatened with termination solely be-

". . . public employee discharge or nonrenewal cases must be judged by balancing an employee's speech and associational rights against the government's right to loyal and effective service."

cause of their political affiliation. The court begins its analysis by reiterating that party affiliation is an acceptable requirement for some public jobs, such as where a State governor replaces immediate assistants who do not share his political beliefs or party commitments.[15] Expressing dissatisfaction with *Elrod's* labeling approach that focused on a "policymaking" status, the Court in *Branti* announced a broader standard that permits patronage dismissals where ". . . the hiring authority can demonstrate that party affiliation is an appropriate requirement for the effective performance of the public office involved."[16] Applying that standard to the position of an assistant public defender, the Court held that party affiliation is not a legitimate factor because a public defender's primary responsibility is to individual clients and not to the State or partisan political interests.[17]

The constitutional limitations on patronage dismissals set forth in *Elrod* and *Branti* are consistent with the view that most public employees enjoy substantial first amendment protection. But constitutional protection is properly denied certain public officials who occupy "political" positions, because those employees must assume the risks inherent in "political" life, including the possibility of being dismissed for their political affiliations or beliefs. Judicial deference to the political dictates of the executive branch is properly limited to "political" jobs, because widespread patronage dismissals based on partisan association are threatening to fundamental first amendment values. An affirmative requirement of partisan affiliation is even more inimical to the democratic process than a restriction on employee expression, because it requires specific action to change partisan association which may skew the political process more directly than a rule forbidding employee speech.[18] Lower court application of the *Elrod-Branti* precedent to law enforcement has produced differing opinions concerning whether any positions in law enforcement organizations should be regarded as "political" for purposes of patronage dismissal.

Lower Court Application of the *Elrod-Branti* Rule to Law Enforcement

Three recent cases involving application of the *Elrod-Branti* rule to law enforcement personnel illustrate a judicial reluctance to accept the proposition that partisan affiliation is an appropriate condition of law enforcement employment. In *Jones* v. *Dodson*,[19] the U.S. Court of Appeals for the Fourth Circuit rejected in categorical fashion the argument that partisan harmony was necessary for the position of chief deputy sheriff by stating that partisan affiliation is not an appropriate condition of law enforcement employment:

> "Under the *Branti* test, we do not believe that the duties of deputy sheriffs, no matter what the size of the office, or the specific position of power involved, or the customary intimacy of the associations within the office, or the undoubted need for mutual trust and confidence within any law enforcement agency, could be found to involve policymaking related to 'partisan political interests' and to involve access to confidential information bearing on partisan political concerns."[20]

Jones involved a suit by two former employees in the Page County, VA, Sheriff's Department—a chief deputy and a dispatcher—who claimed that they were unconstitutionally dismissed because of their political affiliations. The court ruled that the constitutionality of patronage dismissals must be judged by the extent to which the discharged employee engages in policymaking related to partisan political interest and notes that *Branti* flatly rejects any general notion that mutual trust and confidence can only exist between members of the same political party.[21] While *Jones* appears to categorically reject the constitutionality of dismissals based solely on political party affiliation, the court points out that a sheriff is justified in dismissing a deputy for engaging in unprotected political activity or for poor job performance.[22]

In another case involving the nonretention of four deputies by a sheriff who had defeated the incumbent in an election, the U.S. Court of Appeals for the Fifth Circuit ruled in *McBee* v. *Jim Hogg County*[23] that public employee discharge or nonrenewal cases must be judged by balancing an employee's speech and associational rights against the government's right to loyal and effective service.[24] *McBee* is consistent with *Jones* in holding that the discharge of a deputy sheriff, who is otherwise loyal and effective, on the sole ground of political affiliation is unconstitutional; however, discharges for reasons other than partisan affiliation require reviewing courts to engage in a particularized balancing of employee and governmental interests.[25] *McBee* identifies the following factors that are

"... governmental employers are not precluded by the Constitution from prohibiting employees from engaging in certain political activities and conduct when such restrictions serve valid and important governmental interests."

relevant to that balancing process: (1) The degree of the deputy's participation in the election campaign,[26] (2) whether close working relationships are essential to fulfilling the deputy's public responsibilities,[27] and (3) the disruptive effect of the employee's political activities and whether, taken in context, the particular activity could be considered sufficiently hostile, abusive, or insubordinate as to disrupt significantly the continued operation of the department.[28] Importantly, *McBee* recognizes the legitimacy of a sheriff's desire for personal loyalty by stating in the following quotation that the character of a deputy's prior expressions are relevant in deciding the extent of his first amendment rights:

> "[T]he Constitution has not repealed human nature; and it is one thing to work with a subordinate who has expressed a reasoned preference for another superior and quite another to have forced on one's organization an individual who has blackguarded one's honesty and ability up and down the county."[29]

The U.S. Court of Appeals for the Seventh Circuit in *Soderbeck* v. *Burnett County*[30] also confronted the difficult task of applying the *Elrod-Branti* rule to law enforcement personnel. Mrs. Soderbeck had been hired to work in the sheriff's department when her husband was the sheriff; but when her husband was defeated in a subsequent election, the first thing the newly elected sheriff did upon taking office was fire Mrs. Soderbeck. The court highlighted two principles applicable to its decision that Mrs. Soderbeck was unconstitutionally dismissed. First, while employees at the policymaking level of government can generally be fired on political grounds, the narrow definition of a policymaking employee set forth in *Elrod* was superseded by a broader formulation in *Branti*, which allows patronage dismissals when partisan affiliation is an appropriate requirement for the effective performance of the public office involved.[31] As an example, the court notes that if Rosalynn Carter had been President Carter's secretary, President Reagan would not have to keep her on as his secretary, despite the fact a secretary is not ordinarily a policymaking position.[32] Second, if Mrs. Soderbeck functioned as the sheriff's confidential secretary, then she could be constitutionally fired for political reasons, even though a confidential secretary is not a policymaking-level employee.[33] Applying these principles, the court ruled against the sheriff, because there was factual evidence that Mrs. Soderbeck actually functioned more as a bookkeeper than a confidential secretary and had been dismissed solely because she was the wife and presumed ally of the sheriff's political adversary.

It is beyond the scope of this article to discuss in detail the extent to which the Constitution permits law enforcement organizations to prohibit or regulate employee political activity. It is sufficient to note that despite the Court's decisions in *Elrod* and *Branti*, which afford constitutional protection against patronage dismissals based solely on party affiliation, governmental employers are not precluded by the Constitution from prohibiting employees from engaging in certain political activities and conduct when such restrictions serve valid and important governmental interests.[34] For example, because of a compelling need to protect law enforcement organizations from political domination and influence, courts have upheld regulations prohibiting police officers from serving on political committees, working at the polls, raising political funds, running for public office, and engaging in activities designed to promote political causes and advance the fortunes of political candidates.[35]

Policy Considerations

Prior to *Elrod*, patronage dismissals occurred frequently in county sheriff's departments because State laws generally provided for the election every 4 years of a sheriff who was then empowered to appoint a designated number of deputies; other State laws provided that the terms of the employees of the sheriff expired with the end of the sheriff's term, that the deputy sheriff is at least the *alter ego* of the sheriff, and that the sheriff is absolutely liable for the acts of his deputies.[36] As a matter of principle, it can be argued that law enforcement executives should have the power to hire and fire some employees without judicial interference. In that regard, one Federal judge expressed his displeasure over judicial interference with the traditional prerogatives of the elected sheriff as follows:

> "There is something fundamentally wrong with the concept that any federal judge should be telling a newly elected sheriff who his deputies shall be. The average citizen looks on in wonder and questions whether a federal court sitting in judgment should force a sheriff ... to rehire the deputies of his predecessor whose terms of office have expired, leaving the sheriff no right to choose the persons who will work for him for whatever reason he sees fit. A citizen must ask himself why he bothers to vote and elect a sheriff who has campaigned on the promise of

'cleaning house' and who is being sued by those deputies who were an issue in the campaign.... To mandate that a sheriff must accept the deputies that he finds in office simply because they belong to another political party even though he is totally responsible for all their acts is incredible, and beyond the bounds of common sense."[37]

On the other hand, it is arguably an unwise use of executive power to dismiss an experienced and competent law enforcement officer simply for reasons of political party affiliation. The institutional performance of law enforcement organizations may be undermined when employment tenure is made contingent on employee allegiance to a particular political party. It takes time to build the rapport, esprit de corps, and mutual confidence necessary for good teamwork in law enforcement, and employees need continuity in service to develop informants and cultivate other specialized skills. Frequent turnover in personnel not only increases the probability of "rookie mistakes" that pose a risk to public safety, but employee inexperience tends to diminish a needed spirit of cooperation among law enforcement organizations that can exist only when there is mutual confidence in the competence of employees. Partisan influences may also lead to a misuse of authority as employees strive to keep their party in power. Perhaps the public's interest in effective and even-handed law enforcement is best served by law enforcement organizations that are institutionally apolitical, and where employees are free from the potentially corrupting influences associated with political entanglements and compelled partisan affiliation.

Debate on this complex and difficult issue is certain to continue. The recommendations that follow are designed to minimize the risk of liability and protect managerial prerogatives. First, as a general rule, an otherwise competent and efficient employee should not be discharged solely because of a political association or affiliation. Second, employees can be discharged for past political activity that demonstrates a lack of personal loyalty which threatens the effective functioning of the department. Third, until such time as courts reach a more definitive consensus on the constitutionality of patronage dismissals in law enforcement organizations, law enforcement executives should carefully base all adverse personnel actions on performance-based criteria and avoid patronage dismissals except for those positions, if any, where partisan affiliation is demonstrably an appropriate condition for employment.[38] In that regard, law enforcement administrators should carefully document any specific instance where a lack of partisan harmony or personal loyalty has interfered with legitimate law enforcement interests.

ORGANIZATIONAL ASSOCIATIONS

Public employees have a constitutional right to associate with nonpartisan organizations, including labor unions, unless a particular organizational association is shown to be detrimental to governmental interests.[39] Restrictions on the organizational associations of law enforcement officers are valid if they serve legitimate and substantial law enforcement interests. For example, supervisory-level employees may be prohibited from belonging to labor organizations composed of rank-and-file officers because the interests of supervisors and those of the union are often in direct conflict; this poses a significant threat that the loyalties of the supervisors will be divided and that discipline and effectiveness in the department will be impaired.[40]

But other regulations purporting to limit union membership to certain types of unions have been held unconstitutional. In *Mescall* v. *Rochford*,[41] the U.S. Court of Appeals for the Seventh Circuit ruled unconstitutional a rule of the Chicago Police Department which prohibited officers from joining or retaining membership in any labor organization whose membership was not exclusively limited to full-time law enforcement officers. The department argued unsuccessfully that a need for neutrality justified the rule because officer association with an international union which accepts nonpolice officers for membership could result in a potential conflict of interest, and because impartiality in the handling of labor disputes would be threatened in a situation in which a union police officer acts in a labor dispute involving a nonpolice officer affiliate of the international union to which he belongs. The court found the regulation unconstitutionally selective and arbitrary because officers were not prohibited from joining other social, political, and ethnic organizations which conduct parades and demonstrations that would create an even greater conflict of interest than if a nonpolice affiliate of the local union went on strike.[42]

"... disciplinary action based on a personal association must be carefully based on legitimate law enforcement interests."

Despite broad constitutional protection, an officer's associational right to participate in union activities is balanced against, and sometimes overridden by, a department's interest in efficiency. In *Germann* v. *City of Kansas City*,[43] the U.S. Court of Appeals for the Eighth Circuit ruled that the first amendment rights of a fire captain were not violated when his department failed to promote him because of his past union activities. During his tenure as union president, the captain sent a letter to his chief which expressed a degree of personal animosity and also raised a reasonable question regarding the captain's loyalty and respect for the chief. The court concluded that the captain's personal loyalty to the chief was critical to the management structure of the department, and that the chief was therefore justified in believing that the captain's actions as union president rendered him unsuitable for a management-level position in the department.[44]

Courts have also considered the extent to which the constitutional right of association protects a police officer against adverse personnel action based on association with a controversial organization. In *Burns* v. *Pomerleau*,[45] a Federal district court ruled that the decision of the Baltimore City Police Department to exclude an individual from becoming a probationary patrolman solely because of his being a practicing member of a nudist organization was an unconstitutional infringement of freedom of association because the department had not established a nexus between the association and a paramount law enforcement interest.[46] The court ruled that the department failed to present sufficient evidence that the association would render the applicant incapable of effectively carrying out his responsibilities or interfere with legitimate law enforcement activities.[47] Similarly, the New York Court of Appeals ruled that a correction officer was entitled to relief against discipline for alleged membership in the Ku Klux Klan because government officials failed to tender sufficient evidence of detrimental impact on the operation of the correctional facility.[48]

However, an officer's association with a controversial organization such as the Ku Klux Klan is not constitutionally protected if it undermines effective law enforcement. In *McMullen* v. *Carson*,[49] the U.S. Court of Appeals for the 11th Circuit ruled against a clerical employee in the Jacksonville, FL, Sheriff's Office who was fired after being interviewed on a locally televised news broadcast as a recruiter for the Ku Klux Klan. Despite evidence that the employee had performed his duties in exemplary fashion, the court ruled that his dismissal for associating with the Klan was constitutional because the Klan as perceived by the public in the Jacksonville area is a "... violent, criminal, and racist organization dedicated to the sowing of fear and mistrust between white and black Americans."[50] The court recognized the dangerousness to constitutional values of any principle conditioning employment upon a person's association with a constitutionally protected organization and also that the reaction of a community to unpopular views cannot always dictate constitutional protections to employees.[51] Nevertheless, law enforcement employees are subject to greater first amendment restraints than other government employees because of a heightened need for high morale, internal discipline, and public confidence.[52] Accordingly, the court concluded that the sheriff who was faced with an explosive racial situation was constitutionally justified in discharging the employee:

> "... a law enforcement agency does not violate the First Amendment by discharging an employee whose active participation in an organization with a history of violent activity, which is antithetical to enforcement of the laws by state officers, has become known to the public and created an understandably adverse public reaction that seriously and dangerously threatens to cripple the ability of the law enforcement agency to perform effectively its public duties."[53]

PERSONAL ASSOCIATIONS

Many law enforcement organizations have so-called "anti-association" regulations which prohibit officers from associating with certain individuals, such as convicted felons or persons of bad character. In *Morrisette* v. *Dilworth*,[54] the New York Court of Appeals upheld the constitutionality of a regulation of the Suffolk County Police Department forbidding members of the force to associate or fraternize with any person who had ever been convicted of a misdemeanor or felony. Noting that the rule excluded conviction for any offense under the vehicle and traffic laws or a violation of a local ordinance, the court held it was not constitutionally overbroad because it served a valid governmental concern with the integrity of law enforcement.[55]

However, courts disagree over the constitutionality of certain applications of such regulations and the extent to which law enforcement officers are protected by the freedom of association from adverse personnel action based on their social relationships. For example, in *Baron* v. *Meloni*,[56] a Federal district court upheld the dismissal of a deputy sheriff for his continued association with the wife of a reputed organized crime figure who was under investigation. The court concluded that it was reasonable for the sheriff to believe the deputy was putting himself in a tenuous position which might invite exploitation and bring discredit to the department.[57] But, disciplinary action based on a personal association must be carefully based on legitimate law enforcement interests. In *Dunn* v. *McKinney*,[58] a Federal district court ruled unconstitutional the forced resignation of a deputy sheriff for violating a departmental rule prohibiting deputies from voluntarily maintaining or establishing associations or dealing with known criminals, except in the line of duty. The court ruled the department's "anti-association" rule was unconstitutionally vague and overbroad because it was not specifically confined to personal associations that would clearly impact on legitimate and substantial law enforcement interests.[59] Similarly, in *Wilson* v. *Taylor*,[60] the U.S. Court of Appeals for the 11th Circuit ruled that the dismissal of an officer for dating the adopted daughter of a convicted felon reputed to be a key figure in organized crime was an unconstitutional infringement on the officer's constitutionally protected freedom of association. The court ruled that freedom of association "... has grown to include more than associations which are for the purpose of advancing shared beliefs,"[61] and includes purely social and personal associations, including dating.[62] The court acknowledged, however, that law enforcement organizations may constitutionally restrict an officer's personal associations where it is clearly demonstrated that such restrictions are necessary to promote efficiency or to instill public confidence.[63]

The need for internal discipline and impartiality in law enforcement administration may establish a constitutional basis for law enforcement organizations to prohibit certain personal relationships between employees. For example, in *Shawgo* v. *Spradlin*,[64] the U.S. Court of Appeals for the Fifth Circuit ruled that the Amarillo, TX, Police Department was constitutionally justified in disciplining two officers for off-duty dating and cohabitation and could proscribe a superior officer from sharing an apartment with one of lower rank.[65] Similarly, in *Parsons* v. *County of Del Norte*,[66] the U.S. Court of Appeals for the Ninth Circuit upheld the constitutionality of a no-nepotism rule in a county sheriff's department, which prohibited spouses and members of an immediate family from working as permanent employees in the same department. The court said the no-nepotism rule is rationally related to the legitimate governmental purpose of avoiding conflicts of interest and favoritism.[67]

In view of the somewhat inconsistent results reached in these cases, it is difficult to offer precise legal advice regarding the constitutionality of restricting the organizational or personal associations of law enforcement employees. Until courts further define the constitutional parameters governing employee freedom of association, all personnel decisions affecting associational freedom should be carefully tied to demonstrably legitimate law enforcement interests. In that regard, the following factors are relevant in determining whether a particular association can be constitutionally regulated: (1) The need for public trust, (2) employee morale, (3) a need for personal loyalty in a close working relationship, (4) a potential conflict of interests in operational matters, (5) a potential for favoritism in supervision and management, (6) officer integrity, and (7) the need to minimize corruptive influences.

CONCLUSION

The degree of associational protection afforded by the Constitution to law enforcement officers is determined in hierarchical fashion depending on the importance to democratic self-government of the particular associational interest implicated. Patronage dismissals which penalize employees for their political associations are plainly more injurious to the democratic process than a carefully drawn "anti-association" rule prohibiting officers from associating with convicted felons. Patronage dismissals have repercussions that reach beyond the personal interests of employees and pose a threat of systemic proportions to the political process. Accordingly, the Constitution affords a greater measure of protection against patronage dismissals than infringements of personal relationships.

Law enforcement administrators should seek the advice of competent legal counsel before implementing policies or procedures that impact on employee associational interests. Any adverse personnel action based on an employee's organizational or personal associations should be carefully reviewed to ensure the existence of a documented and legally defensible basis to support the action taken.

Footnotes

[1] For a discussion of the extent to which the Constitution protects law enforcement employees against disciplinary action based on their speech or expressive activity, see Daniel L. Schofield, "The Constitutionality of Organizational Policies Regulating Employee Speech," *FBI Law Enforcement Bulletin*, vol. 54, No. 9, September 1985, pp. 21-31.

[2] See Note, "Politics and the Non-Civil Service Public Employee: A Categorical Approach to First Amendment Protection," 85 Colum. L. Rev. 558 (1985).

[3] For citations to other important Supreme Court cases recognizing the existence of a constitutional right of association, see Note, "*Roberts v. United States Jaycees*: Discriminatory Membership Policy of a National Organization Held Not Protected by First Amendment Freedom of Association," 34 Cath. L. Rev. 1065 (1985).

[4] 427 U.S. 347 (1976).

[5] *Id.* at 355.

[6] *Id.* at 356.

[7] *Id.* at 362-63.

[8] *Id.* at 366.

[9] *Id.* at 364-66.

[10] *Id.*

[11] *Id.* at 367.

[12] *Id.* at 367-68.

[13] 445 U.S. 507 (1980).

[14] *Id.* at 511. Again, as in *Elrod*, the Court limited its decision to patronage dismissals and specifically refused to consider the propriety of other patronage practices, including patronage hiring. *Id.* at 513, n. 7.

[15] The Court offers as another example the position of State election judge which is neither confidential nor policymaking in character, and yet, would qualify for an exception because party membership is essential if the appropriate balance of party representation mandated by State election laws is to be maintained. However, a State university football coach formulates policy, but would not qualify because party affiliation has no bearing on job performance. *Id.* at 518.

[16] *Id.*

[17] *Id.* at 519.

[18] One commentator argues that all adverse personnel actions taken because of an employee's political beliefs are unconstitutional. *See* Note, "First Amendment Limitations on Patronage Employment Practices," 49 U. of Chicago L. Rev. 181 (1982).

[19] 727 F.2d 1329 (4th Cir. 1984).

[20] *Id.* at 1338.

[21] *Id.*

[22] *Id.* at 1340.

[23] 730 F.2d 1009 (5th Cir. 1984) (en banc).

[24] *Id.* at 1014.

[25] *Id.*

[26] *Id.* at 1016.

[27] *Id.* at 1016-17.

[28] *Id.* at 1017.

[29] *Id.*

[30] 752 F.2d 285 (7th Cir. 1985), *cert. denied*, 105 S.Ct. 2360 (1985).

[31] *Id.* at 288.

[32] *Id.*

[33] In that regard, the court stated: "[Y]ou cannot run a government with officials who are forced to keep political enemies as their confidential secretaries."

[34] *Broadrick v. Oklahoma*, 93 S.Ct. 2908, 2912 (1973).

[35] *See, Pollard v. Board of Police Commissioners*, 665 S.W.2d 333 (Sup. Ct. Mo. 1984), *cert. denied*, 105 S.Ct. 3534 (1985) where a sergeant in the Kansas City, MO, Police Department contributed $1,000 to a political campaign and was terminated for violating a departmental rule which prohibited officers from making political contributions; *see also*, *Reeder v. Kansas City Board of Police Commissioners*, 733 F.2d 543 (8th Cir. 1984).

[36] *Whited v. Fields*, 581 F.Supp. 1444 (W. D. Va. 1984).

[37] *Id.* at 1449 and 1456.

[38] In that regard, in *Shondel v. McDermott*, 775 F.2d 859 (7th Cir. 1985), the court reiterated that the purpose of making the firing of a public employee because of his political beliefs a violation of the first amendment is to ensure that such employees are not deterred from exercising their rights under the first amendment. The expression "policymaking officer" is just a shorthand expression for an employee whose political loyalty is important to the effective operations of government. Thus, a sheriff's confidential secretary, who herself has no policymaking powers, can be fired for lacking political loyalty because such loyalty is important for that kind of job. *Id.* at 864. However, in *Lindahl v. Bartolomei*, 618 F.Supp. 981 (N.D. Ind. 1985), the court held that a supervisor in the civil office of a sheriff's department is not a policymaking position that may be changed on political grounds, because political loyalty is not relevant to successful performance. *Id.* at 987.

[39] *See Smith v. Arkansas State Highway Employees, Local 1315*, 99 S.Ct. 1826 (1979).

[40] *Vicksburg Firefighters Association v. City of Vicksburg, Mississippi*, 761 F.2d 1036 (5th Cir. 1985).

[41] 655 F.2d 111 (7th Cir. 1981).

[42] *Id.* at 113-14. A more narrowly drawn provision was reviewed in *Brennan v. Koch*, 564 F.Supp. 322 (S.D.N.Y. 1983), where the court upheld a section of a collective bargaining law which denied certification to any labor organization representing members of the police department that also admitted individuals not members of the police force.

[43] 776 F.2d 761 (8th Cir. 1985).

[44] *Id.* at 765. A similar result was reached in *Wilton v. Mayor and City Council of Baltimore*, 772 F.2d 88 (4th Cir. 1985), where the court ruled that correctional officers who were widely known as union representatives for employees at the city jail were not denied their constitutionally protected freedom of association when they were denied promotion to positions of lieutenant on the basis of their union activity which could have led to a management structure badly compromised by conflicts of allegiances. The court said that the bitterness of labor management relations, though regrettable, cannot logically diminish the legitimacy of the government's concern over supervisor loyalty. *Id.* at 91.

[45] 319 F.Supp. 58 (D. Md. 1970).

[46] *Id.* at 66.

[47] *Id.* at 69.

[48] *Curle v. Ward*, 389 N.E.2d 1070 (Ct. of App. N.Y. 1979).

[49] 754 F.2d 936 (11th Cir. 1985).

[50] *Id.* at 938.

[51] *Id.* at 940.

[52] *Id.* at 938.

[53] *Id.* at 940.

[54] 452 N.E.2d 1222 (Ct. of App. N.Y. 1983).

[55] *Id.* at 1224.

[56] 602 F.Supp. 614 (W.D.N.Y. 1985).

[57] *Id.* at 618.

[58] 622 F.Supp. 259 (D.C. Wyo. 1985).

[59] *Id.* at 262.

[60] 733 F.2d 1539 (11th Cir. 1984).

[61] *Id.* at 1543.

[62] *Id.* at 1544.

[63] *Id.* at 1544, n. 3.

[64] 701 F.2d 470 (5th Cir. 1983).

[65] *Id.* at 482. In *Puzick v. City of Colorado Springs*, 680 P.2d 1283 (Colo. Ct. of App. 1984), the court ruled that the right of association was not violated by the suspension of an officer for a consensual off-duty sexual encounter with a probationary patrolwoman.

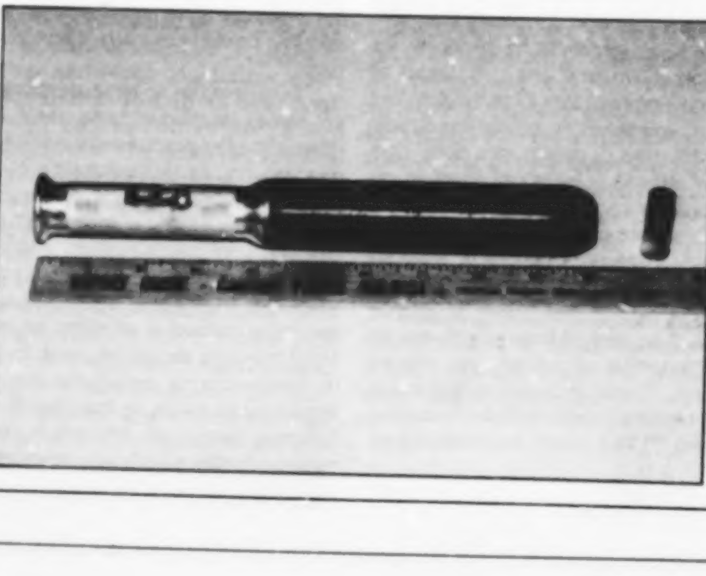
[66] 728 F.2d 1234 (9th Cir. 1984).

[67] *Id.* at 1237.

Club Gun

An officer with the Canton, OH, Police Department confiscated this weapon from an individual who accidentally shot himself. The gun measures 10 inches and fires a .44-caliber magnum round of ammunition. The barrel is 6 inches of brass covered with black rubber, and the firing system is turned aluminum with a safety notch. Unusual weapons such as this concealable gun pose a serious threat to law enforcement officers' safety.

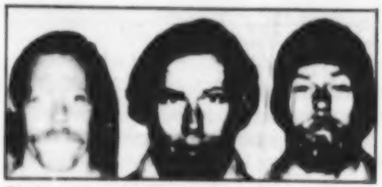
(Submitted by Canton, OH, Police Department)



WANTED BY THE FBI

Any person having information which might assist in locating these fugitives is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Because of the time factor in printing the FBI Law Enforcement Bulletin, there is the possibility that these fugitives have already been apprehended. The nearest office of the FBI will have current information on these fugitives' status.


Photographs taken 1974 and 1975

James William Kilgore,

also known as Charles Adams, Ron Adams, Charles Baker, Charles Barber, George William Dickerson, David Ian Holcomb, James Kilgore, Charles Owen, Charles Owens, Robin Stewart, Gary Lee Waycott, "Paul."

W; born 7-30-47, Portland, OR; 5'10"; 175 lbs; med bld; brn hair; blue eyes; med comp; occ—cook, house painter;

remarks: athletically inclined, plays basketball and golf, reportedly very near sighted and needs glasses most of the time.

Wanted by FBI for UNLAWFUL POSSESSION OF UNREGISTERED BOMB DEVICE.

NCIC Classification:

POCI131315DI67PO1315

Fingerprint Classification:

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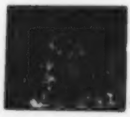
I.O. 4803

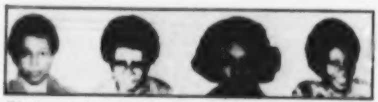
Social Security
Numbers Used: 553-68-0622; 553-58-0622

FBI No. 448 488 L10

Caution

James William Kilgore, reportedly a member of an extremist group that has claimed credit for numerous bombings including police facilities and vehicles, is being sought for the unlawful possession of an explosive device. He may be accompanied by Kathleen Ann Soliah, Identification Order No. 4804. Both individuals may possess explosives and should be considered armed and dangerous.


Right thumbprint


Photographs taken 1979, 1980, and unknown

Joanne Deborah Chesimard,

also known as Joanne Deborah Byron Chesimard, Joanne Byron, Joan Chesimard, Joanne Debra Chesimard, Joanne Chesterman, Joan Davis, Joanne Davis, Mary Davis, Justine Henderson, Sister Love, Barbara Odoms, Assata Shakur, and others.

N; born 7-16-47 (not supported by birth records), New York, NY; 5'6"; 127–138 lbs; sldr bld; blk (various styles) hair; brn eyes; med comp; occ—tutor, writer;

scars and marks: bullet scars on abdomen, chest, left shoulder and underside of right arm; round scar on left knee;

remarks: has worn tinted prescription glasses in the past; may be dressed in Muslim or men's clothing; reportedly jogs regularly.

Wanted by FBI for INTERSTATE FLIGHT—MURDER.

NCIC Classification:

AAAAAA0711AAAAAA0409

Fingerprint Classification:

$$\frac{7\quad 1\quad \text{aAa}\quad 11}{1\quad \text{aAa}}$$

I.O. 4846

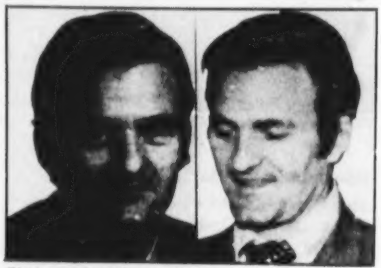
Social Security
Number Used. 051-38-5131

FBI No. 11 102 J7

Caution

Chesimard, who is being sought as an escapee from custody, was at the time of escape serving a life sentence for the shooting murder of a New Jersey State trooper. Chesimard, who is reportedly a member of a revolutionary organization which has an extensive history of criminal activity involving violence, should be considered armed, extremely dangerous, and an escape risk.

Left thumbprint


Photographs taken unknown

William Bradford Bishop, Jr.,

also known as Bradford Bishop, Bradford Bishop, Jr. W; born 8-1-36; Pasadena, CA; 6'1"; 180 lbs; med bld; brn hair; brn eyes; med comp; occ-U.S. Government Foreign Service Officer; remarks: is proficient in several languages including Italian and Serbo-Croatian. Wanted by FBI for INTERSTATE FLIGHT-MURDER.

NCIC Classification:

23PI1719161913DIPI16

Fingerprint Classification:

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I.O. 4696

Social Security
Number Used: 556-48-3489

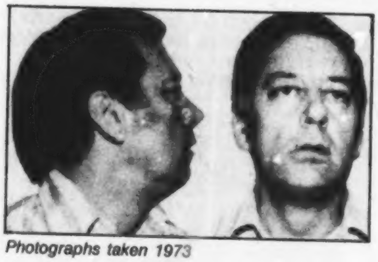
FBI No. 497 002 L7

Caution

Bishop is being sought in connection with the bludgeon slayings of five members of his immediate family. Bishop reportedly is under psychiatric care and uses medication for depression. Consider extremely dangerous and having possible suicidal tendencies.

Right index fingerprint

WANTED BY THE FBI



Photographs taken 1973

Dewey Admiral Daniels, Jr.,

also known as James E. Burns, James W. Burns, Admiral Dewey Daniels, Jr., Lee Johnson, Charles Morgan, Gene Smith, George Tipton, Robert Whitson. W; born 4-9-29, Washington County, TN; 5′10″-11″; 190-220 lbs; hvy bld; brn hair; bl-grn eyes; med comp; occ-carpenter's helper, farmer, former police officer, heavy equipment operator, machinist, salesman.

Wanted by FBI for INTERSTATE FLIGHT-ARMED ROBBERY AND FELONIOUS ASSAULT.

NCIC Classification:

DO5407CO14201114CI11

Fingerprint Classification:

4 O 9 R IIO 14

L 18 U OOI

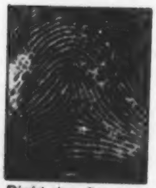
I.O. 4674

Social Security
Number Used: 409-56-5976

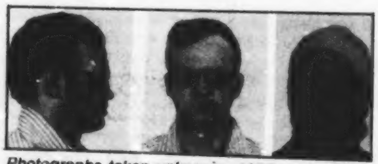
FBI No. 178 723 H

Caution

Daniels, a reported judo expert who has been indicated for bank robbery by a Federal grand jury, has been heavily armed in the past and allegedly, with a sawed-off shotgun, fired on and seriously wounded a law enforcement officer. Consider armed and dangerous.



Right ring fingerprint



Photographs taken unknown, 1975, and 1978

Larry Porter Chism,

also known as Calvin Joseph Acosta, Gary Joseph Buomi, Gary Joseph Buoni, Douglas D. Baker, Mark Anthony Baldwin, Larry Chism, Larry P. Chism, James Frederick Hedrick, Jr., Theodore Lee Masson, Earl F. McClain, George McClain, Warren Howell Smith, III, and others.

W; born 12-19-48, Forrest City, AK; 5′10″; 145–155 lbs; med bld; brn hair; brn eyes; lt comp; occ—cashier, clerk-typist, farmer, law student, logger, roofer, salesman, stock clerk;

scars and marks: birthmark on left thigh, long cut scar on one leg, scars on both arms;

remarks: reportedly wears contact lenses or thick-lens glasses; full fluffy hairstyle, dark brown almost black, with full beard and mustache.

Wanted by FBI for INTERSTATE FLIGHT—KIDNAPING, THEFT OF PROPERTY.

NCIC Classification:

18TT08PO1321TT092011

Fingerprint Classification:

18 M 9 T IO 13

L 1 T IO

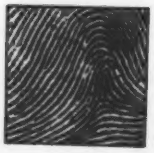
I.O. 4842

Social Security
Numbers Used: 431-82-5804; 431-82-5894

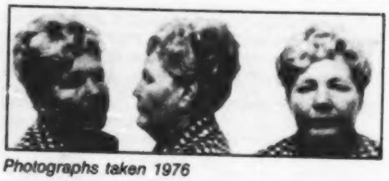
FBI No. 367 973 N5

Caution

Chism, who is being sought as a prison escapee, was at the time of escape serving a lengthy sentence for armed robbery and kidnaping. Chism, reportedly a heroin addict, is alleged to have escaped custody by overpowering a deputy sheriff and subsequently kidnaping two individuals. Consider Chism armed, dangerous, and an escape risk.



Right index fingerprint



Photographs taken 1976

Rosa Lee Lewallen,

also known as Rosa Lee Allen, C.H. Bennett, Elma Bennett, Mary Helen Bennett, Mary Lee Cheaveze, Mary Lee Roscoe Cheavze, Mrs. Julius Coons, Mrs. Koons, Mrs. John Rose Lewallen, Rosa Lee Lundy, Connie Ann Miller Martin, Rosa Lee Merritt, Mary Lee Roscoe, Mrs. John Rose, and others.

W; born 6-2-33, Chesterfield County, SC; 5′2″–5′6″; 126–147 lbs; hvy bld; reddish blond hair; blue eyes; ruddy comp; occ—waitress;

scars and marks: vertical scar base of throat to navel, long vertical scar left thigh, scars on inner wrists and inner elbows of both arms, several moles on right cheek of face, discolored right eye;

remarks: suffers heart condition, has had open heart surgery, wears false teeth, hair may be dyed and may wear wig.

Wanted by FBI for INTERSTATE FLIGHT—KIDNAPING

NCIC Classification:

191707CO[illegible]6101802

Fingerprint Classification:

19 L [illegible] OIO 6   Ref: 25 9 25

M R OIO   1 2 2

I.O. 48[illegible]5

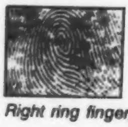
Social Security
Numbers Used: 251-89-3229; 251-98-3292; 253-44-2713

FBI No. 310 735 C

DISMISSED

Caution

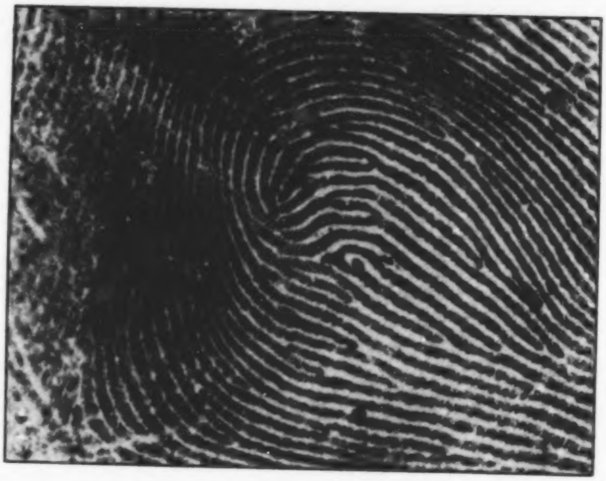
Lewallen, who is being sought as an escapee from custody, was at the time of escape serving a life term following conviction for kidnaping in which the female victim was tied to a tree and left to die. She reportedly has suicidal tendencies and should be considered armed, dangerous, and an escape risk.



Right ring fingerprint

Questionable Pattern

The fingerprint examiner obtained a ridge count of 19 by counting the ridges which are crossed by an imaginary line drawn between delta and core of this loop pattern. The pattern is referenced to an accidental whorl with an outer tracing due to a possible tented arch formation appearing beneath the inner looping ridges.



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The Bulletin Notes

While on routine patrol on October 13, 1985, Officer Leonard L. Wiggins of the Smithfield, VA, Police Department observed a parked car which appeared to have smoke coming from it. Two teenagers in the car were not breathing. Officer Wiggins, using CPR, was able to revive one and his backup officer the other. Officer Wiggins' alertness and professional response assured the survival of the young people in the car, and the Bulletin joins his chief in commending this officer.

PTL
SMITHFIELD
POLICE

Officer Wiggins

55/9

FBI Law Enforcement Bulletin

September 1986

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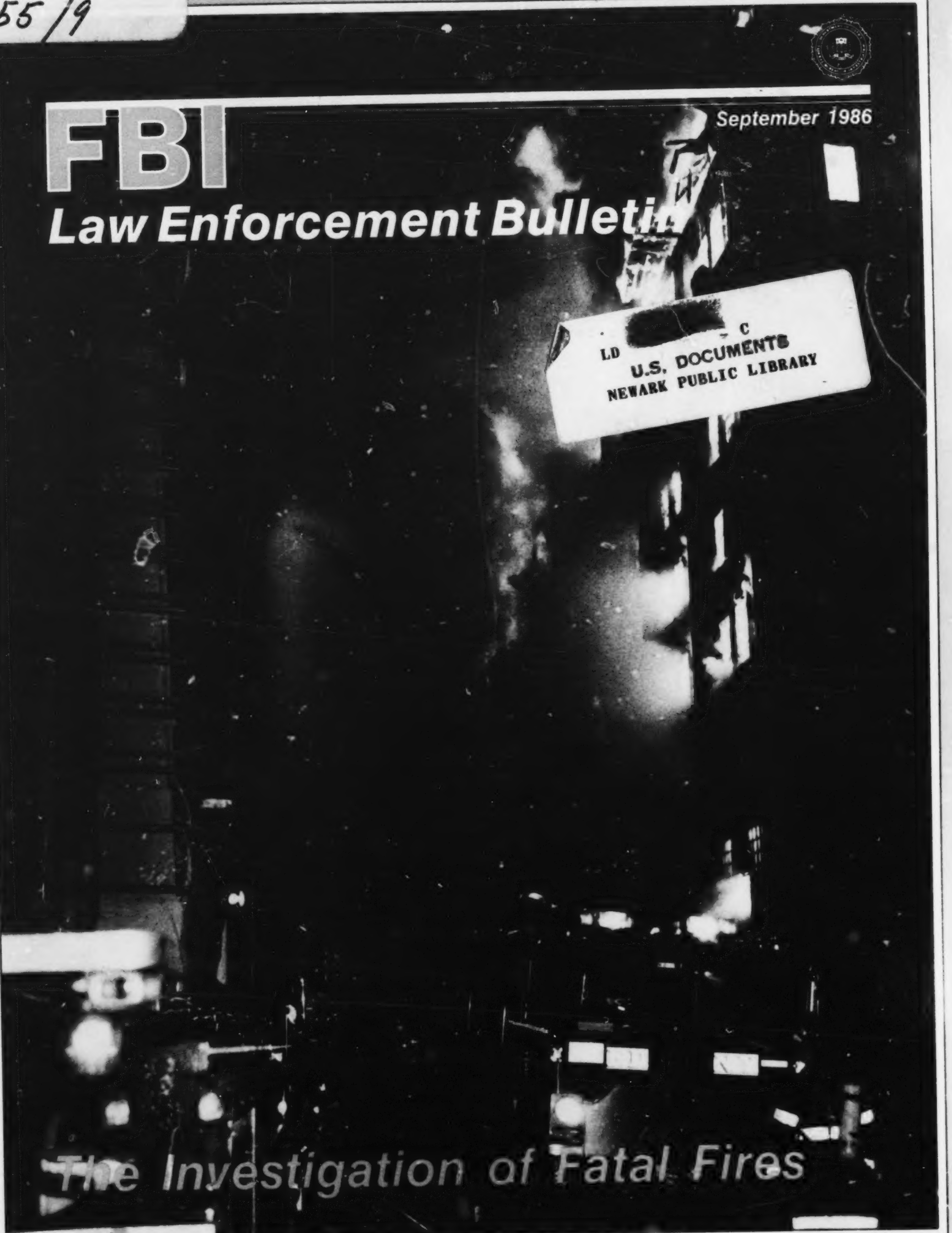

The Investigation of Fatal Fires

J 1.14/8:

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The Cover:
This 10-alarm fire in Manhattan was adjacent to the quarters of a NYCFD rescue company.

FBI
Law Enforcement Bulletin

United States Department of Justice
Federal Bureau of Investigation
Washington, DC 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 6, 1988.

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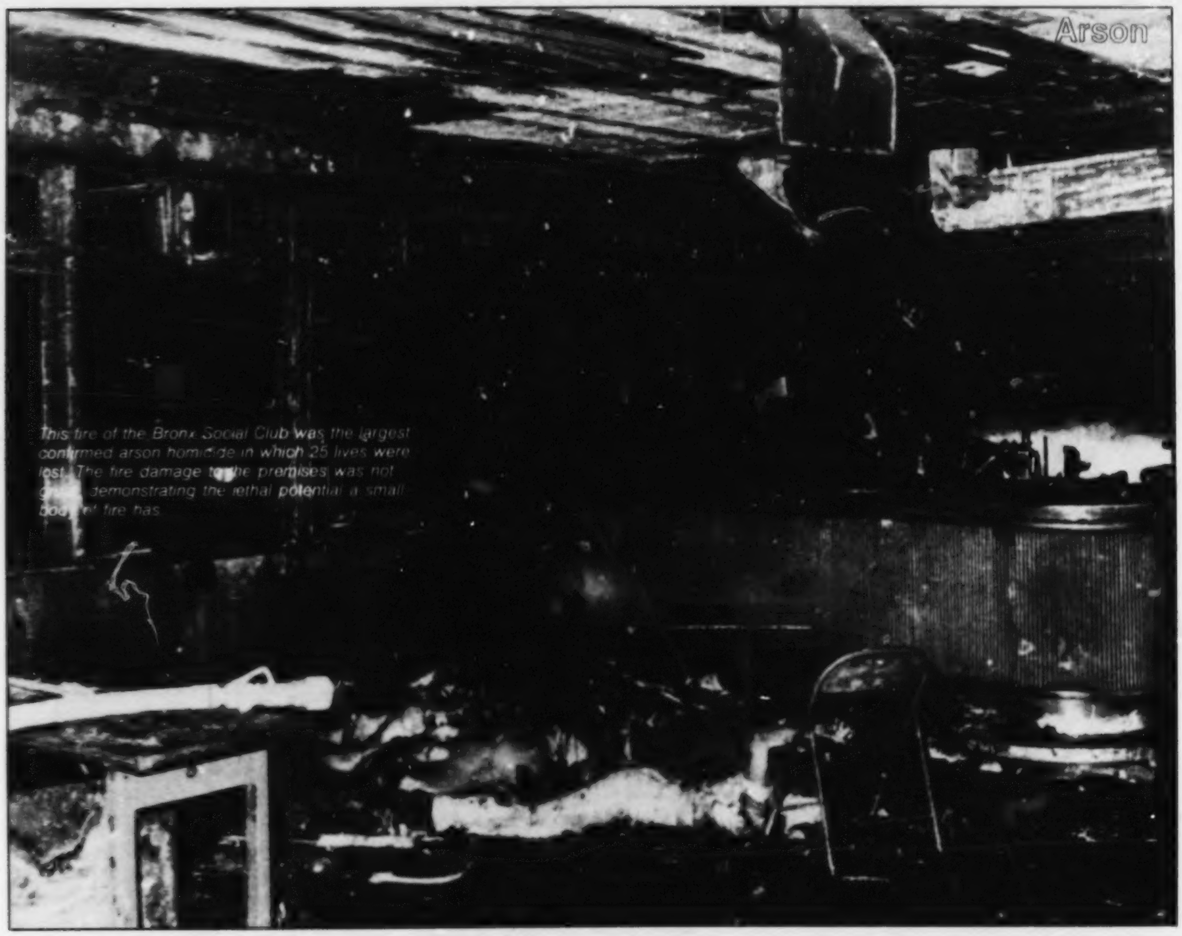

This fire of the Bronx Social Club was the largest confirmed arson homicide in which 25 lives were lost. The fire damage to the premises was not great, demonstrating the lethal potential a small body of fire has.

The Investigation of Fatal Fires

Views of the Medical Examiner and Toxicologist

(Conclusion)

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> **"The role of the forensic pathologist is not limited to determining only the cause of death of the victim(s) but involves assisting in elucidating the causes of the disaster."**

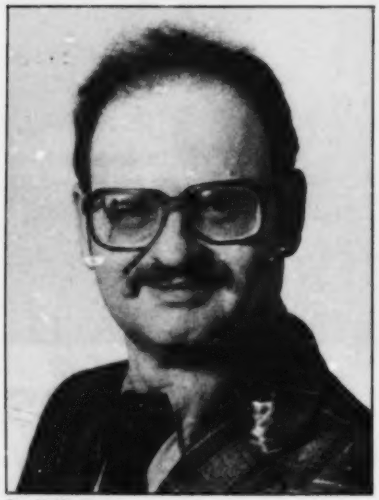
By
YONG-MYUN RHO, M.D.,
Deputy Chief Medical Examiner
and
DONALD B. HOFFMAN, Ph. D.
Senior Chemist
Office of Chief Medical Examiner
New York, NY

Pathological Aspects

The investigation of fire fatalities requires a combination of basic knowledge for the recognition of special pathological features, an understanding of the causes and effects of fires, and a high degree of concern and commitment. The role of the forensic pathologist is not limited to determining only the cause of death of the victim(s) but involves assisting in elucidating the causes of the disaster. The need exists for close teamwork among the pathologists, toxicologists, fire marshals, and police.

READEX best copy available

Dr. Rho



Dr. Hoffman

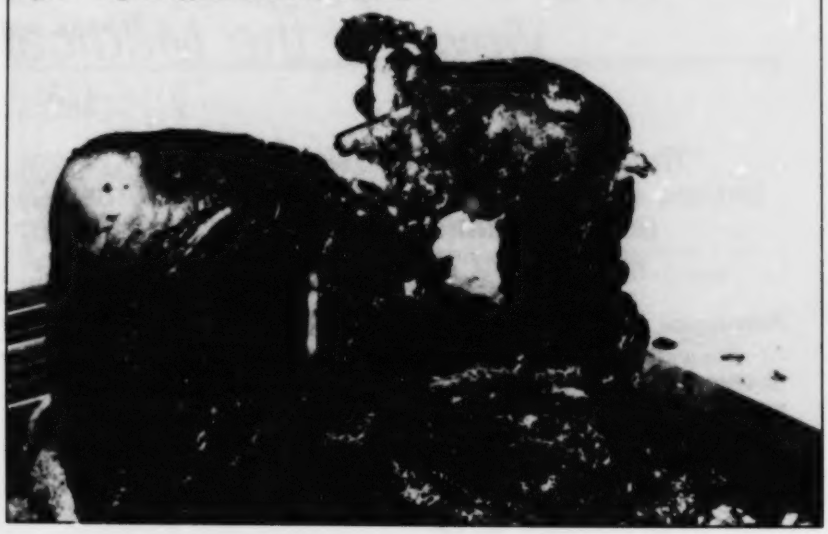
Victim at the Fire Scene

The external appearance of the body must be interpreted according to whether the victim is found at the scene of the fire, or if death occurs subsequently in the hospital. The degree of burning and charring of the body is relatively unimportant because these occur in large part as a result of heat effects on the body after death. Charring and burning can, however, seriously hamper visual identification of the remains.

It is of the utmost importance that the pathologist be able to determine whether the victim was dead or alive at the time the fire started. The so-called "pugilistic" or "boxer's" posture that is commonly observed in the body of a fire victim is caused by the contraction of muscles due to heat and has no bearing on the posture taken by the decedent prior to the time of death. (See fig. 1.)

Evidence of life is seen as evidence of respiration. Unless the victim was suddenly engulfed by extremely intense heat, there will be signs that the victim inhaled smoke and other combustion products, and sometimes accelerants. The upper airway is usually coated with black soot. Blood and internal organs are usually bright red when there is a sufficient amount of carbon monoxide saturation. However, heat effects and contamination can obscure the bright red color even when high levels of carbon monoxide are present. If the presence of soot is questionable, a microscopic examination of the tissue from the trachea may be necessary. Rarely does the fire victim inhale combustion products, but dies instantaneously when there is an intense flash fire and superheated air hits the face and laryngeal opening. Flash or explosive-type fires, particularly in confined spaces, can also produce instantaneous oxygen depletion, resulting in rapidly fatal effects without any buildup of carbon monoxide. The time required to reach fatal levels of

Figure 1 Pugilistic appearance of charred remains.



"It is of the utmost importance that the pathologist be able to determine whether the victim was dead or alive at the time the fire started."

carbon monoxide saturation can vary greatly depending upon the concentration and rate of production of gas, duration of exposure, and the presence or absence of cardiovascular and respiratory problems.

Occasionally, there are deaths due to natural disease that are incidental to the fire. These are probably precipitated by sudden physical exertion or severe emotional stress. Diagnoses of this nature, however, can only be made after a complete autopsy has been done to exclude any traumatic cause of death.

Interpretation of the results of toxicological analyses for combustion products should be made with great care. The method of collecting the specimen, the techniques used to analyze the specimen, and the skill of the technicians all influence test results. Organs and body fluids are often markedly altered by heat destruction. Blood may be clotted, mixed with tissue or body fluids, or contaminated with burnt debris. All of these may affect the results of toxicological analysis.

Intense heat may even break down the blood cells and hemoglobin and cause erroneous carbon monoxide values. Thus, the toxicology results should not be taken at face value without regard to the nature and quality of the sample. Moreover, the same amount of carbon monoxide saturation may be interpreted differently in the presence of advanced heart disease, severe anemia, or chronic lung disease.

For the determination of type of accelerent used, the forensic pathologist should collect such specimens as debris on the body surface, clothing, skin sections, lung tissue, blood, and brain tissue. The pathologist should be informed as soon as possible about all evidence collected at the scene.

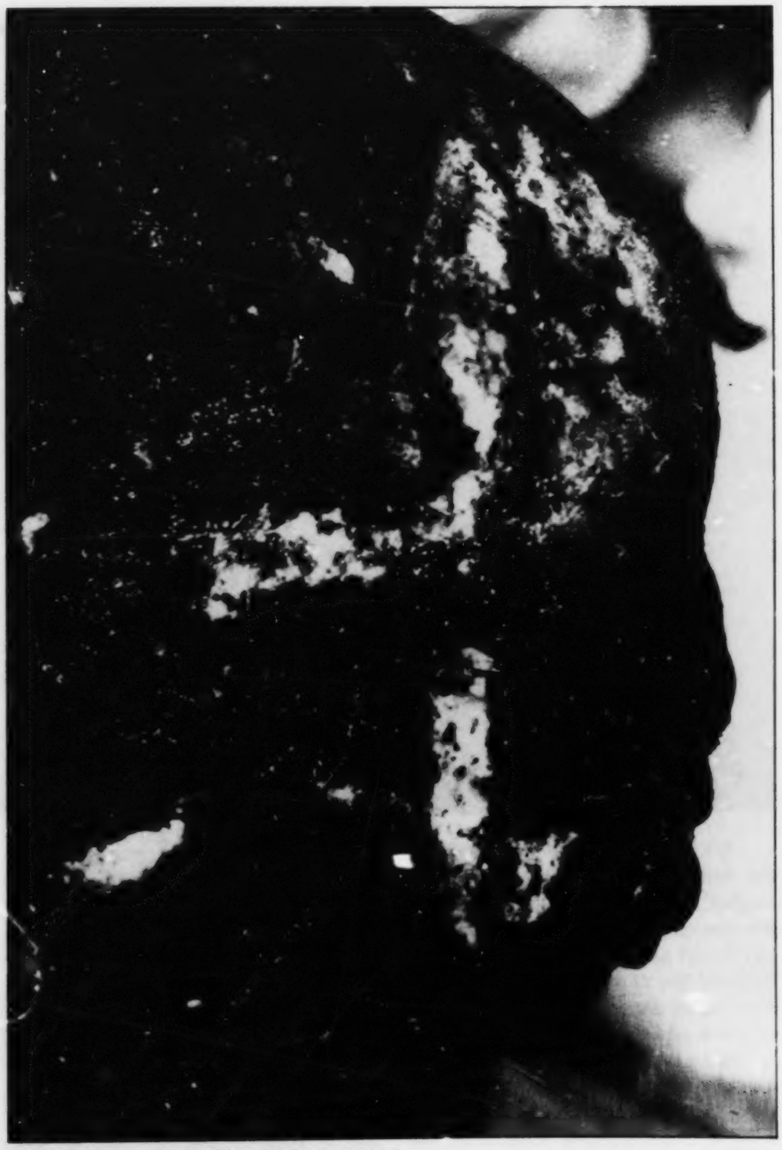


Figure 2 Post mortem splitting of skin due to heat.

"A major difficulty in the investigation of severely burnt bodies is the proper identification of the remains."

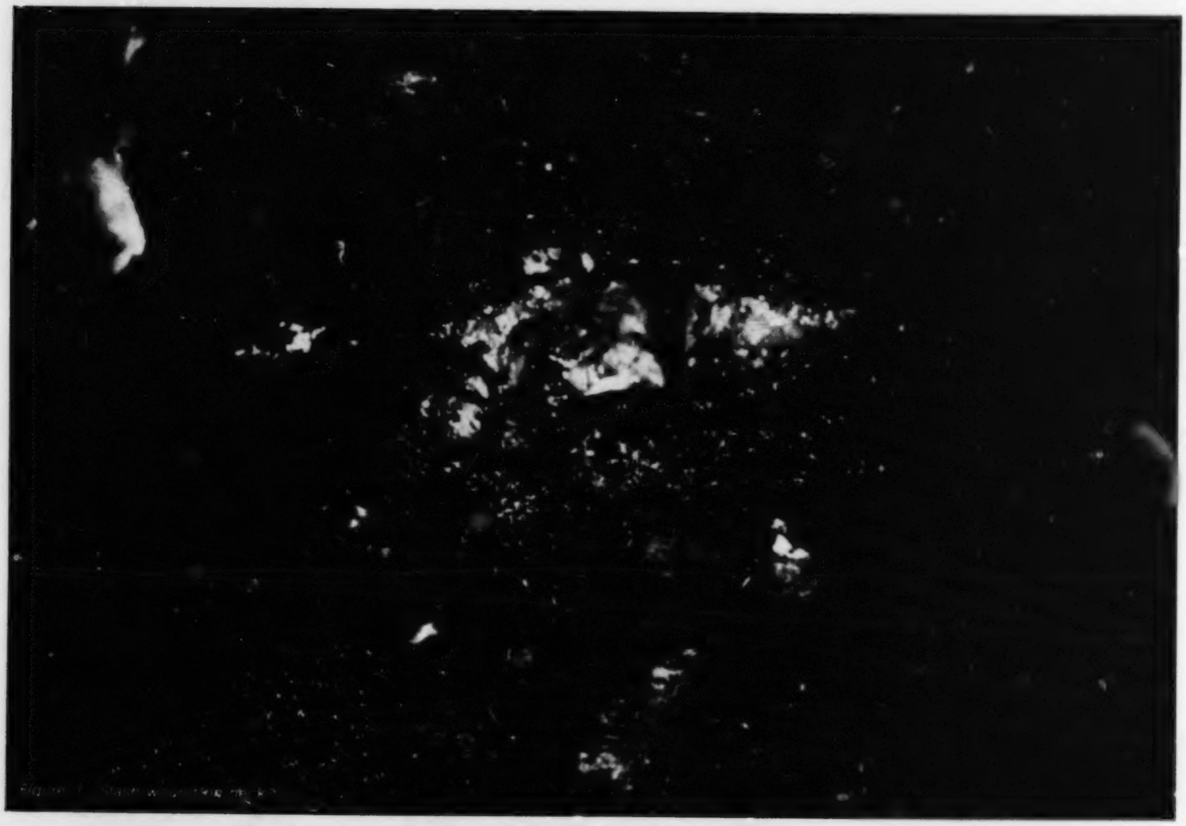


Figure 1— [illegible]

If there is no clear evidence that the victim was alive at the time the fire started, the real cause of death should then be carefully sought. A fire may be set by an assailant in an attempt to conceal the crime committed. Extensive burns and charring may obscure or mask any preexisting injuries, while at the same time certain post mortem changes may mimic ante mortem injuries. (See figs. 2, 3, and 4.) Therefore, even if a body shows extensive heat destruction, the pathologist should examine every part of the body carefully for any evidence of ante mortem injury.

Demonstration of concealed injuries often requires painstaking autopsy work. X-rays of the entire body are necessary either to reveal or to exclude any missile object(s). It may also be necessary to examine the debris near the body because a missile object may have passed through or dropped off a charred and brittle body.

Post mortem heat splitting usually occurs in the superficial tissues, mostly the skin. When the muscles are also involved, the splitting invariably occurs in the direction of the muscle fibers. The internal organs may eviscerate through these artificially created spaces, but there is no free blood present in the body cavities. Bones become brittle and their ends can be burnt off by intense heat. It is interesting to note that a recently sutured surgical wound often splits open from the effect of heat, and this can provide an excellent clue for the identification of the individual found.

The top of the skull may burst open. The fracture ends are irregular and zigzag in appearance, and there may be several curved fractures on the upper part of the skull. The inner and

outer tables of the skull do not share the same fracture lines, and the cracking is often more pronounced on the outer table. A cracked skull may sometimes have the appearance of an incompletely broken porcelain jar.

The brain is markedly condensed and shrunken. There is often a thick layer of caking or coagulum formation in the epidural space (the space between the skull and the thick membrane called the dura). This is the result of the heat's effect on the blood which has oozed out of ruptured vessels and also on the fluid component of the brain. The dura, however, is intact. A heat-induced cracked skull and epidural coagulum should not be confused with ante mortem lesions.

A major difficulty in the investigation of severely burnt bodies is the proper identification of the remains. For purpose of identification, the following clues may prove helpful:

—Visual characteristics,

—Individual physical features, e.g., body build, sex, race, deformities,

—Evidence of surgical procedures, e.g., prostheses, pacemakers, scars, recent abortions, etc. (From their markings, pacemakers may be traced to the manufacturer and eventually to the patients),

—Tattoos (location and type),

—Dental characteristics, e.g., type of filling, crowns, bridges, dentures, degree of eruption, missing teeth, etc.,

—X-ray evidence, e.g., congenital deformities, ossification centers, old fractures, etc.,

—Personal documents, such as passport, driver's license,

—Clothing, including labels,

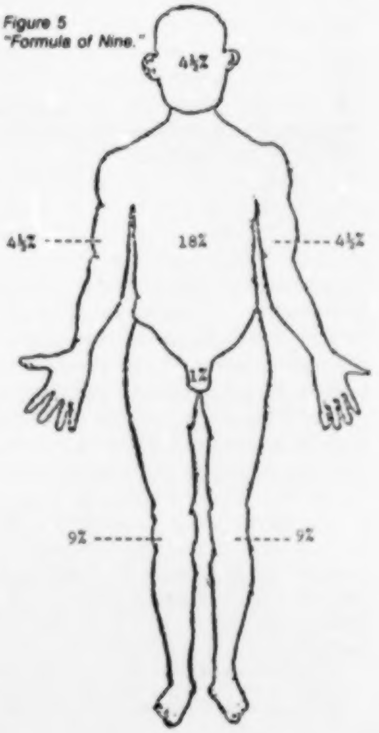
—Jewelry, especially personalized items such as belt buckle, high school or college rings, and

—Ingested food (last meal).

Delayed Deaths

When the victim dies after the fire, the extent of tissue damage and subsequent medical complications arising therefrom become important in the cause of death. Burns of the skin are usually graded into three degrees depending on the depth of injured layers: First degree—local engorgement of blood vessels causing redness (erythema); second degree—blister formation between two layers of the skin, namely epidermis and dermis; third degree—death of the full thickness of the skin. Sometimes the charring and carbonation stage is referred to as the fourth degree. For the estimation of the extent of burnt areas on the body surface, the "formula of nine" is quite useful. (See fig. 5.)

Figure 5
"Formula of Nine."



"The toxicological examination of victims is essential to any fatal fire investigation. . . ."

The major medical complications of burns are: (1) Loss of fluids from burnt tissues (dehydration); (2) absorption into the system of the products of burnt and dead tissues (toxemia); (3) infection of burnt tissues; (4) infection of the upper airway, lungs, kidneys, and septicemia; (5) accumulation of breakdown products of blood pigments and muscle pigments with subsequent kidney failure (hemoglobinuric and myoglobinuric nephropathy); (6) brain damage from sustained lack of respirable oxygen (anoxic encephalopathy); and (7) others, including fat embolism to the lungs from burnt subcutaneous tissue, and acute ulcers of duodenum and stomach (Curling's ulcers).

Toxicological Aspects

The toxicological examination of victims is essential to any fatal fire investigation, since such an examination helps to establish whether the victim was dead or alive (evidence of inhalation of carbon monoxide, accelerants) when the fire started and the cause of death (carbon monoxide levels, presence of other toxic combustion products). It also will determine the presence of accelerant residues in the body, i.e., blood, lungs, brain or in sections of excised skin, or in the clothing of the victim or in debris and other evidence found at the scene, thereby providing substantiation for arson, and confirm the presence and significance of alcohol and other drugs, both licit and illicit. Drug-induced impairment could be related to the careless, accidental initiation of the fire or the inability to escape. Drugs could also have been administered by a perpetrator to incapacitate a victim prior to committing the arson or assault (homicide).

Toxic fire gases are produced by the combustion, thermal decomposition, and pyrolysis of both natural substances and synthetic materials, such as plastics and polymers. They may also arise from heat-induced chemical interactions among the various reactants. These processes, in turn, depend upon the nature, quantity, and physical state of the combustibles and reactants, the degree of ventilation (oxygen supply) and the temperature of the fire, and the intensity and directions of the radiated heat.

The combustion of all natural and synthetic organic substances produces carbon monoxide (CO), which is the single most important toxic gas in relation to fire deaths. Blood saturation levels of CO (percent carboxyhemoglobin) above 50 percent are consistent with death. Yet, victims who succumb rapidly to the effects of intense heat, anoxia, or aggravation of natural disease may show normal or only slightly to moderately elevated CO levels. The overall problem of toxic fire gases is, however, very extensive and not confined to carbon monoxide. Many such gases can cause significant injury (immediate or delayed) and are potential contributing factors to death.

Depending upon the specific conditions of the fire, all nitrogen-containing materials, particularly urethane, melamine, acrylonitrile plastics, and fabrics such as nylon, wool, and silk can give rise to at least one or more of the following—hydrogen cyanide, ammonia, nitrogen oxides, isocyanates, etc. Sulfur-containing materials, such as rubber, hides, leather, and also wool and silk, can generate hydrogen sulfide and sulfur oxides. Halogenated products (containing chlorine, fluorine, or bromine), such as polyvinylchloride (PVC) of particular importance, fluorinated resins and polymers (e.g. Teflon), and some fire retardant-treated materials can give rise to hydrogen chloride, chlorine, hydrogen fluoride, and hydrogen bromide. Fats, oils, and cellulosic materials (wood, paper) can generate acrolein, a potent respiratory irritant.

Toxic gases may be generally categorized as asphyxiants, irritants-corrosives, and central nervous system (CNS) toxicants. Asphyxiants, e.g., carbon monoxide, hydrogen cyanide, interfere with the use of oxygen by the cells of the body. Irritants and corrosives are capable of producing chemical inflammation and/or destruction of the tissues of the respiratory tract and lungs. Depending upon the ambient concentration and degree of exposure, the respiratory and pulmonary effects may be immediate or may involve a latency period of several hours to several days. Nitrogen dioxide, in particular, exhibits such a delayed onset of symptoms. The most prominent examples of irritant-corrosives are ammonia, nitrogen and sulfur oxides, isocyanates, acrolein, hydrogen chloride, hydrogen fluoride, and hydrogen bromide. Central nervous system toxicants, such as hydrogen sulfide, various hydrocarbons, and phosphorous compounds, may produce effects that mimic alcoholic intoxication, i.e., confusion, disorientation, progressing in severe cases to stupor.

It has been found that high percentages of fire victims with acute levels of carbon monoxide also have elevated to toxic, but sublethal, blood levels of cyanide. It is thought that the toxic effects of such concentrations may cause the victim to become dizzy, nauseous, confused, or disoriented, thus preventing escape from the fire scene.

There have been many reports of acute respiratory distress, particularly among firefighters, following exposure to hydrogen chloride-containing fumes or smoke generated from thermal decomposition of polyvinylchloride, a plastic widely used for electrical insulation and other industrial purposes. Also noteworthy is the thermal decomposition/pyrolysis of synthetic plastics and foams, which involves shorter time periods to reach the point of maximum smoke obscuration. This can enhance the overall toxic impact of such smoke by significantly reducing visibility in the fire area and thus further impeding escape.

The most commonly used accelerants (lighter fluids, paint thinners, gasoline. kerosene, and fuel oils) are complex mixtures of families of hydrocarbons, and all are derived from petroleum. Turpentine is a mixture of terpene hydrocarbons derived from wood. All such products possess the property of high lipid (fat) solubility. Hence, they readily penetrate the skin when such contact occurs and will enter the bloodstream. When inhaled they are absorbed by the lungs and will also be carried by the blood. However, the detection of accelerant residue in biological material will depend upon the type of accelerant used, the amount to which the victim was exposed (time-concentration effects), and the survival time. In cases of delayed death, it may no longer be possible to detect accelerants in post mortem specimens. However, blood samples taken after admission to the hospital may be very useful.

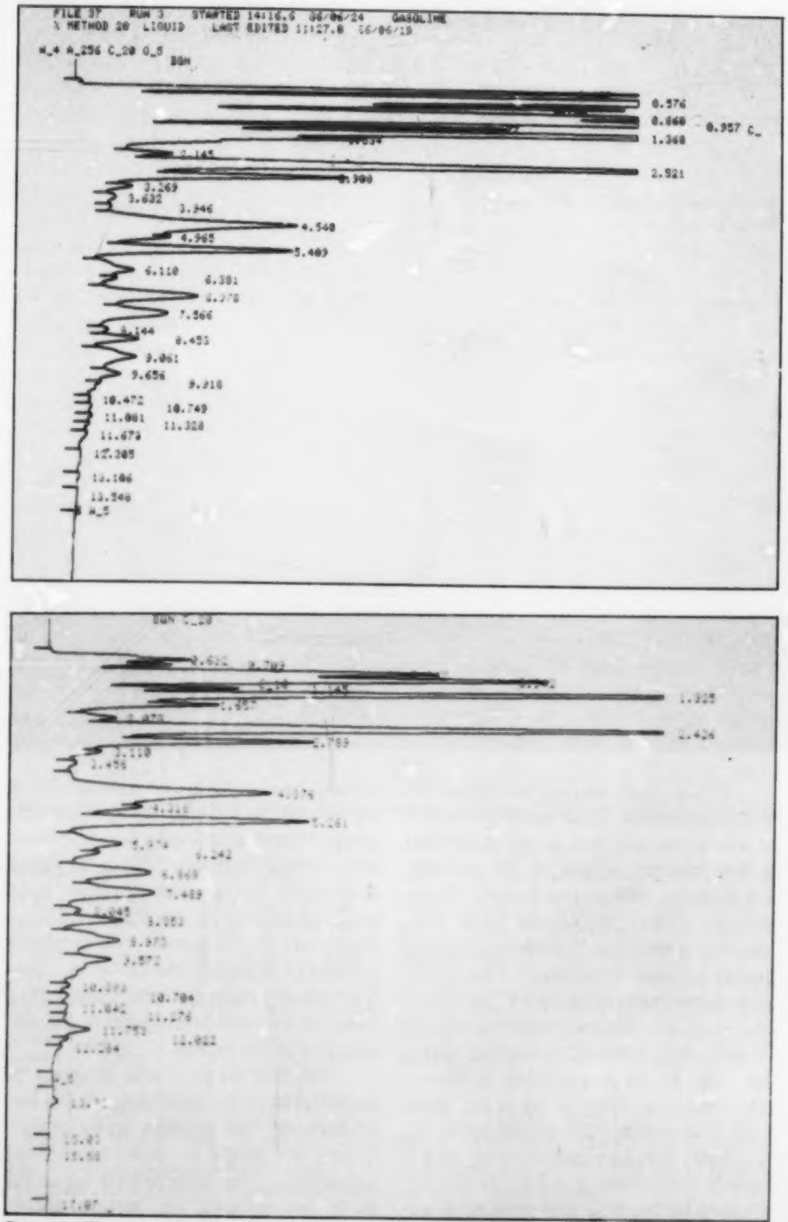


Figure 6 The top photograph shows the gas chromatographic tracing of a standard sample of gasoline. The other photograph shows gas chromatographic tracing of a case sample of gasoline residue from debris. The difference in the spectra reflects partial evaporation of the more-volatile components under conditions of the fire atmosphere.

"The investigation of a fatal fire involves a team effort on the part of the investigator, the medical examiner, and chemist."

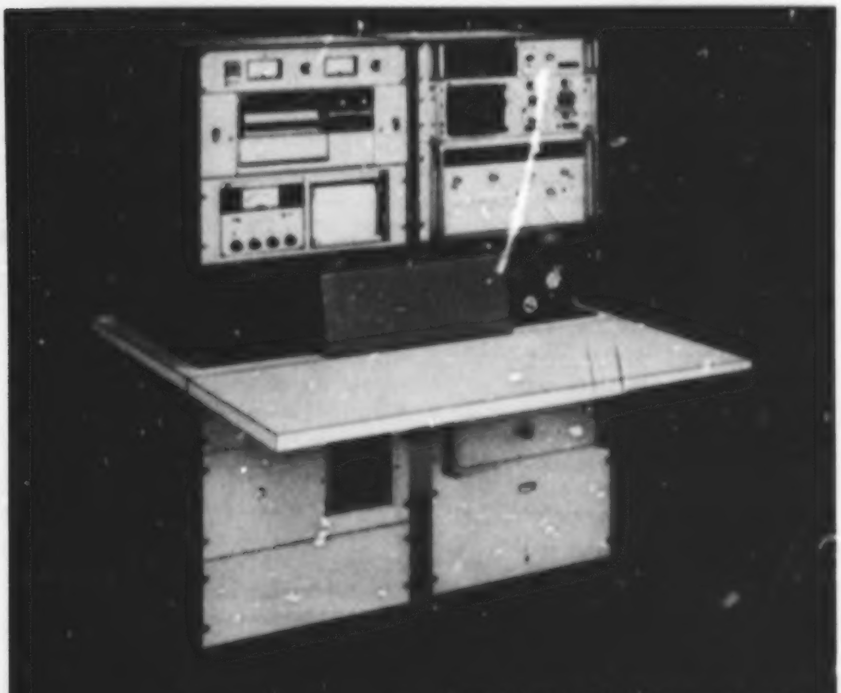


Figure 7. A mass spectrometer normally used in conjunction with a gas chromatograph.

There must be proper collection and preservation of all evidence found at the scene which is to be submitted to the forensic laboratory for accelerant analysis. Where practicable, clean, unlined metal containers or screw-capped glass (no rubber or plastic seals) are recommended. Where the size of the material requires the use of plastic bags, these should be tightly sealed and preferably kept refrigerated, as should all collected evidence, until testing is done so as to minimize loss of accelerant by volatilization.

Detection and identification of accelerant residues in evidence will be affected by the type and amount of accelerant used, the intensity and duration of the fire, the boiling off of the lighter, more-volatile components leaving behind the heavier (differential volatility), loss of accelerant due to the effects of high-pressure hosing, physical destruction of the point of origin, contamination due to background substances or to chemicals, and products present or stored in the fire area. Analytic results must be interpreted very carefully and with knowledge of the nature of the fire scene.

The first stage in the analysis of accelerants is the separation of the hydrocarbons from various types of evidence materials or from biological specimens. This is achieved by using such techniques as temperature-controlled volatilization in a sealed container, extraction with selected organic solvents, or absorption on wires coated with finely powdered charcoal. The basic analytic technique itself is one which combines a process known as chromatography with mass spectrometry.

In the chromatographic process (such as gas-liquid chromatography), the components of the original sample may be resolved (separated) into individual compounds, or as is more generally the case, partially resolved into a number of different fractions, each of which contains several or more compounds. As each fraction becomes "resolved," the mass spectrometric process provides chemical family or families of the compounds in each fraction. By analyzing known samples of each of a series of standard accelerants, a structure-specific, analytic data pattern is obtained for each. This information can be put into the memory bank of a computer. By comparison of the data obtained on an actual case sample with that from known standard accelerants, the analyst can determine if an accelerant or accelerant residue was present in the sample, and if there is sufficient information, what type of accelerant was used. (See figs. 6 and 7.)

Summary

The investigation of a fatal fire involves a team effort on the part of the investigator, medical examiner, and chemist. Only by working in close cooperation with other professionals can each one maximize the effects of individual endeavors. And as in any joint venture, good communication and mutual understanding are integral parts of a fatal fire investigation. Without the knowledge and findings of the others, the investigation of a fatal fire would be deficient.

FBI

Crime in the United States 1985

Final 1985 crime statistics show that all Crime Index offenses rose in volume from the previous year. Following 3 consecutive years of decline, the Index total increased to 12.4 million offenses in 1985, an average rate of 5,207 crimes per 100,000 U.S. inhabitants. The number of offenses was 5 percent above the 1984 figure and 10 percent higher than the 1976 level. However, it was 7 percent lower than in 1981, when crime was at its all-time high.

Figures from nearly 16,000 city, county, and State law enforcement agencies provided the basis for the annual evaluation of crime by the FBI's Uniform Crime Reporting (UCR) Program. During 1985, the participating agencies represented approximately 231 million U.S. inhabitants or 97 percent of the total population.

VIOLENT CRIMES

A 4-percent increase in violent crime—murder, forcible rape, robbery, and aggravated assault—was recorded in 1985. These crimes collectively rose in volume last year and represented 11 percent of the total Crime Index offenses reported to law enforcement. Individually, murder was up 2 percent; forcible rape, 4 percent; robbery, 3 percent; and aggravated assault, 6 percent.

The violent crime rate, which relates offense volumes to population, also rose in 1985 to 556 per 100,000 inhabitants, a 3-percent increase. Five- and 10-year comparisons showed the 1985 violent crime total down 3 percent from 1981 but 32 percent higher

Index of Crime, United States, 1976–1985

Population[1]	Crime Index total[2]	Modified Crime Index total[3]	Violent crime[4]	Property crime[4]	Murder and non-negligent man-slaughter	Forcible rape	Robbery	Aggra-vated assault	Burglary	Larceny-theft	Motor vehicle theft	Arson[3]
Number of offenses:												
1976–214,659,000	11,349,700		1,004,210	10,345,500	18,780	57,080	427,810	500,530	3,108,700	6,270,800	966,000	
1977–216,332,000	10,984,500		1,029,580	9,955,000	19,120	63,500	412,610	534,350	3,071,500	5,905,700	977,700	
1978–218,059,000	11,209,000		1,085,550	10,123,400	19,560	67,610	426,930	571,460	3,128,300	5,991,000	1,004,100	
1979–220,099,000	12,249,500		1,208,030	11,041,500	21,460	76,390	480,700	629,480	3,327,700	6,601,000	1,112,800	
1980–225,349,264	13,408,300		1,344,520	12,063,700	23,040	82,990	565,840	672,650	3,795,200	7,136,900	1,131,700	
1981–229,146,000	13,423,800		1,361,820	12,061,900	22,520	82,500	592,910	663,900	3,779,700	7,194,400	1,087,800	
1982–231,534,000	12,974,400		1,322,390	11,652,000	21,010	78,770	553,130	669,480	3,447,100	7,142,500	1,062,400	
1983–233,981,000	12,108,600		1,258,090	10,850,500	19,310	78,920	506,570	653,290	3,129,900	6,712,800	1,007,900	
1984–236,158,000	11,881,800		1,273,280	10,608,500	18,690	84,230	485,010	685,350	2,984,400	6,591,900	1,032,200	
1985–238,740,000	12,430,000		1,327,440	11,102,600	18,980	87,340	497,870	723,250	3,073,300	6,926,400	1,102,900	
Percent change: number of offenses:												
1985/1984	+4.6		+4.3	+4.7	+1.6	+3.7	+2.7	+5.5	+3.0	+5.1	+6.8	
1985/1981	−7.4		−2.5	−8.0	−15.7	+5.9	−16.0	+8.9	−18.7	−3.7	+1.4	
1985/1976	+9.5		+32.2	+7.3	+1.1	+53.0	+16.4	+44.5	−1.1	+10.5	+14.2	
Rate per 100,000 inhabitants:												
1976	5,287.3		467.8	4,819.5	8.8	26.6	199.3	233.2	1,448.2	2,921.3	450.0	
1977	5,077.6		475.9	4,601.7	8.8	29.4	190.7	247.0	1,419.8	2,729.9	451.9	
1978	5,140.3		497.8	4,642.5	9.0	31.0	195.8	262.1	1,434.6	2,747.4	460.5	
1979	5,565.5		548.9	5,016.6	9.7	34.7	218.4	286.0	1,511.9	2,999.1	505.6	
1980	5,950.0		596.6	5,353.3	10.2	36.8	251.1	298.5	1,684.1	3,167.0	502.2	
1981	5,858.2		594.3	5,263.9	9.8	36.0	258.7	289.7	1,649.5	3,139.7	474.7	
1982	5,603.6		571.1	5,032.5	9.1	34.0	238.9	289.2	1,488.8	3,084.8	458.8	
1983	5,175.0		537.7	4,637.4	8.3	33.7	216.5	279.2	1,337.7	2,868.9	430.8	
1984	5,031.3		539.2	4,492.1	7.9	35.7	205.4	290.2	1,263.7	2,791.3	437.1	
1985	5,206.5		556.0	4,650.5	7.9	36.6	208.5	302.9	1,287.3	2,901.2	462.0	
Percent change; rate per 100,000 inhabitants:												
1985/1984	+3.5		+3.1	+3.5		+2.5	+1.5	+4.4	+1.9	+3.9	+5.7	
1985/1981	−11.1		−6.4	−11.7	−19.4	+1.7	−19.4	+4.6	−22.0	−7.6	−2.7	
1985/1976	−1.5		+18.9	−3.5	−10.2	+37.6	+4.6	+29.9	−11.1	−.7	+2.7	

[1] Populations are Bureau of the Census provisional estimates as of July 1, except April 1, 1980, preliminary census counts, and are subject to change.

[2] Because of rounding, the offenses may not add to totals.

[3] Although arson data are included in the trend and clearance tables, sufficient data are not available to estimate totals for this offense.

[4] Violent crimes are offenses of murder, forcible rape, robbery, and aggravated assault. Property crimes are offenses of burglary, larceny-theft, and motor vehicle theft. Data are not included for the property crime of arson.

All rates were calculated on the offenses before rounding.

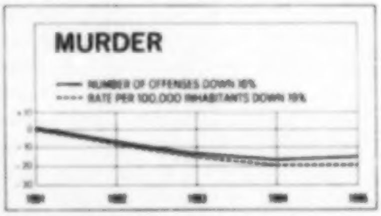
than in 1976.

MURDER—There were 8 murders for every 100,000 people in the United States during 1985. When compared to the previous year, the 1985 volume (18,976) was 2 percent higher nationwide. Similar to the national trend, overall increases of 2 percent were also experienced in cities and in suburban and rural counties. Increases were recorded in all regions except the Northeastern States, where murder declined 2 percent.

Forty-seven percent of 1985 murder victims were aged 20 through 34 years. Of every 100 victims, 74 were males and 56 were white. Firearms were the predominant murder weapons.

Victim/offender relationships showed that nearly 3 of every 5 murders committed were perpetrated by relatives or persons acquainted with the victims. By circumstances, 39 percent of all murders resulted from arguments, 20 percent were proven or suspected to have occurred in conjunction with felonious activities, such as robbery, arson, etc., 18 percent resulted from miscellaneous nonfelony activities, and 23 percent from unknown circumstances.

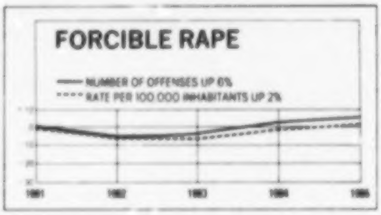
Of all persons arrested for murder last year, the 18- to 24-year age group showed the greatest involvement, accounting for 33 percent of the total arrests for this offense; 41 percent of all murder arrestees were under 25 years of age. Fifty percent were white; 48 percent, black; and the remainder, other races.



FORCIBLE RAPE—An estimated 87,340 forcible rapes occurred in 1985, of which 80 percent were rapes by force and the remainder were attempts or assaults to commit forcible rape. A comparison of 1984 and 1985 figures showed the volume nationwide, in cities, and in suburban counties rose 4 percent. In rural counties, the increase was 9 percent. For the same 2-year period, forcible rapes were also up in all four geographic regions of the country.

By UCR definition, the victims of forcible rape are always females, and in 1985, an estimated 71 of every 100,000 females in the Nation were reported rape victims. The national clearance rate for forcible rape was 54 percent.

There were an estimated 36,970 arrests for forcible rape in 1985. Of the arrestees, 45 percent were under the age of 25, with 30 percent in the 18- to 24-year age group. Fifty-two percent of those arrested were white and 46 percent were black.

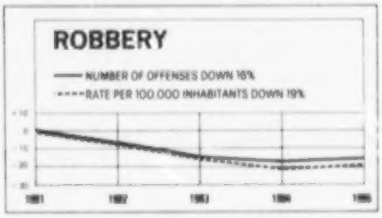


ROBBERY—Robberies reported to law enforcement increased 3 percent in volume from 1984 to 1985. The 497,874 offenses accounted for a total estimated national loss of $313 million, an average of $628 per incident.

Regionally, the number of robberies fell only in the Midwest, which recorded a 3-percent decline from the previous year. A similar decrease was reported in the rural counties, while increases in robberies were experienced in cities and in suburban counties. The national rate of 209 robberies per 100,000 people was 2 percent higher than in 1984. The highest rate—965 per 100,000 inhabitants—was in cities with populations over 1 million.

Strong-arm tactics were used in 42 percent of all robberies last year. Thirty-five percent were committed with firearms, 13 percent with knives and other cutting instruments, and the remainder with other dangerous weapons. Over half of the offenses were robberies on streets and highways.

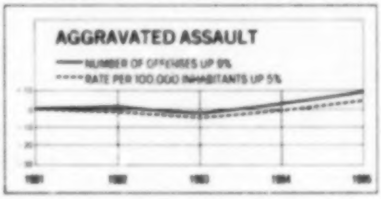
In 1985, 1 of every 4 robberies were cleared, and robbery arrests rose less than 1 percent as compared to the 1984 total. Ninety-two percent of the robbery arrestees were males and 65 percent were under 25 years of age. Sixty-two percent were black and 37 percent were white.



AGGRAVATED ASSAULT—The 723,246 estimated aggravated assaults represented a 6-percent increase over the 1984 total. Increases were recorded in all regions and areas. Up 4 percent over 1984, the national rate for aggravated assault in 1985 was 303 per 100,000 inhabitants.

Twenty-one percent of all aggravated assaults were committed through the use of firearms, 23 percent with knives or other cutting instruments, 31 percent with some other weapon, and 25 percent with personal weapons (hands, fists, feet).

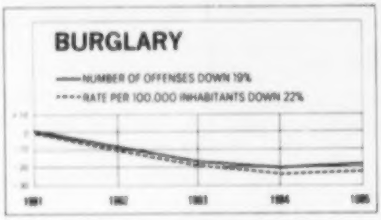
Law enforcement agencies cleared 62 percent of the aggravated assaults coming to their attention. There were an estimated 305,390 arrests for aggravated assault in 1985. Arrests of males outnumbered those of females by 6 to 1. Of the arrestees, 58 percent were white and 40 percent were black.



PROPERTY CRIMES

Up 5 percent jointly, the property crimes of burglary, larceny-theft, and motor vehicle theft accounted for 89 percent of the total Crime Index offenses reported to law enforcement. Burglary increased 3 percent; larceny-theft, 5 percent; motor vehicle theft, 7 percent; and arson 3, percent. The property crime total was 8 percent below the 1981 level but 7 percent above that of 1976, and the property crime rate, 4,650 per 100,000 inhabitants, was 4 percent higher in 1985 than in 1984.

BURGLARY—Nearly 3.1 million burglary offenses were reported to law enforcement agencies across the country during 1985, and the volume of this offense was 3 percent higher than the 1984 total. Geographically, the South's burglary volume was up 8 percent and the West's, 4 percent, while declines of 3 percent in the Midwest and less than 1 percent in the Northeast were registered. The national burglary rate of 1,287 per 100,000 inhabitants in 1985 rose 2 percent over the previous year's rate.



The total estimated national loss due to burglary in 1985 was $2.9 billion, for an average of $953 per incident. Two of every 3 burglaries were of residences, and the average loss in residential burglaries was $974 per offense, as compared to $913 for nonresidential burglaries.

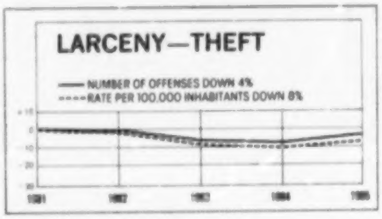
Seventy percent of the burglary offenses in 1985 involved forcible entry, 22 percent were unlawful entries, and the remainder were forcible entry attempts. The clearance rate for burglary was 14 percent. Arrest trends for 1984 and 1985 showed a 2-percent increase in total burglary arrests. Of the estimated 443,300 burglary arrestees in 1985, 93 percent were males, 73 percent were under 25 years of age, and 70 percent were white.

LARCENY-THEFT—Comprising 56 percent of the Index total and 62 percent of all property crimes, larceny-thefts numbered an estimated 6,926,380 offenses in 1985. During the year, 5 percent more larcenies were registered nationally and in cities than in 1984. Increases of 7 and 1 percent were recorded in suburban and rural counties, respectively. All geographic regions recorded increases.

The larceny-theft rate in 1985 was 2,901 per 100,000 inhabitants nationwide. Average losses were $393 per incident, with a total national loss due to larceny-theft estimated at $2.7 billion.

An analysis of the larceny-theft category showed that 37 percent of these offenses were thefts of motor vehicle parts, accessories, and contents. Thefts from buildings comprised 16 percent; shoplifting, 14 percent; and bicycle thefts, 8 percent.

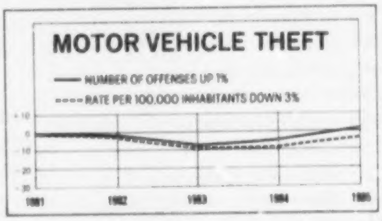
In 1985, 20 percent of the larceny-thefts reported were cleared. Overall arrests for this offense were up 5 percent from the 1984 total. Females were arrested for this offense more often than for any other during the year. Of all persons arrested for the crime, 47 percent were under 21 years of age and 67 percent were white.



MOTOR VEHICLE THEFT— During 1985, an estimated 1 of every 159 registered motor vehicles was stolen, and the national total of 1,102,862 offenses was 7 percent above the 1984 total. Of the motor vehicles stolen, 75 percent were automobiles, 14 percent were trucks or buses, and the remainder were other types. An estimated $5.1 billion national loss was due to motor vehicle theft last year. At the time of theft, the average value per vehicle was $4,619.

The volume of motor vehicle theft increased 12 percent in the suburban counties and 6 percent in both the cities and rural counties. Regionally, upswings of 18 percent in the South and 10 percent in the West were recorded. Declines of less than 1 percent were experienced in the Northeast and the Midwest.

The national clearance rate for motor vehicle theft was 15 percent. Arrests for this offense in 1985 were up 11 percent overall from the previous year. Of the arrestees, 57 percent were under 21 years of age and 91 percent were males. Whites comprised 66 percent of the persons arrested and blacks, 32 percent.



ARSON—During 1985, 103,220 arson offenses were reported by 12,789 agencies. The arson volume rose 3 percent in 1985 over the 1984 total, and increases were also recorded in the cities (2 percent), suburban counties (6 percent), and rural counties (1 percent). The national arson rate was 50 per 100,000 population.

Data based on 12,697 agencies furnishing at least 1 month of supplemental information concerning the arsons reported in 1985 showed that of the property targeted by arsonists, structures accounted for 56 percent, mobile property (motor vehicles, airplanes, boats, etc.) for 26 percent, and

Total Estimated Arrests,[1] United States, 1985

TOTAL[2]	11,945,200
Murder and nonnegligent manslaughter	18,330
Forcible rape	36,970
Robbery	136,870
Aggravated assault	305,390
Burglary	443,300
Larceny-theft	1,348,400
Motor vehicle theft	133,900
Arson	19,500
Violent crime[3]	497,560
Property crime[4]	1,945,100
Crime Index total[5]	2,442,700
Other assaults	637,600
Forgery and counterfeiting	87,600
Fraud	342,600
Embezzlement	11,400
Stolen property; buying, receiving, possessing	127,100
Vandalism	259,600
Weapons; carrying, possessing, etc.	180,900
Prostitution and commercialized vice	113,800
Sex offenses (except forcible rape and prostitution)	100,600
Drug abuse violations	811,400
Gambling	32,100
Offenses against family and children	58,800
Driving under the influence	1,788,400
Liquor laws	548,600
Drunkenness	964,800
Disorderly conduct	671,700
Vagrancy	33,800
All other offenses (except traffic)	2,489,200
Suspicion (not included in totals)	12,900
Curfew and loitering law violations	81,500
Runaways	161,200

[1] Arrest totals based on all reporting agencies and estimates for unreported areas.
[2] Because of rounding, items may not add to totals.
[3] Violent crimes are offenses of murder, forcible rape, robbery, and aggravated assault.
[4] Property crimes are offenses of burglary, larceny-theft, motor vehicle theft, and arson.
[5] Includes arson.

other types of property (crops, timber, etc.) for 18 percent. Fifty-nine percent of the structural arsons involved residential property, and 92 percent of the arsons of mobile property involved motor vehicles.

Averaging $15,457 per incident, the reported monetary value of property damaged due to arson was $1.3 billion. Included in the total is $400 million in damage caused by a single arson incident at an industrial/manufacturing facility.

Seventeen percent of the arsons coming to the attention of law enforcement in 1985 were cleared. Demonstrating a higher percentage of juvenile involvement than any other Index crime, only persons under age 19 accounted for 36 percent of all arson clearances. The estimated number of arrests for arson in 1985 totaled 19,500. Sixty-three percent of the arrestees were under 25 years of age and 41 percent were under 18. Of all arrestees, 87 percent were males and 76 percent were white.

CRIME DISTRIBUTION

Geographically, total Crime Index trends for 1985 against those of the previous year showed rises of 9 percent in the Southern States, 6 percent in the Western States, and 2 percent in the Northeastern States. The Midwestern States registered virtually no change for the two annual periods.

The Nation's cities registered a 4-percent Crime Index increase from 1984 to 1985, while suburban counties recorded a 6-percent increase and rural counties, a 2-percent rise. Overall Crime Index rates were highest in the Nation's cities and lowest in rural counties. There were 5,921 Crime Index offenses per 100,000 people in metropolitan areas, 4,580 per 100,000 inhabitants of cities outside metropolitan areas, and 1,803 offenses per 100,000 rural area residents.

CLEARANCES AND ARRESTS

Twenty-one percent of all Index crimes reported during 1985 were cleared by law enforcement. The overall clearance rate for violent crime was 48 percent and 18 percent for property crime. Reporting agencies recorded the highest clearance rate (72 percent) for murder, while the lowest was for burglary (14 percent).

The most successful clearance rate for Crime Index offenses was registered in the Southern States with 22 percent. Following were the Western States with 21 percent and the Northeastern and Midwestern States each with 19 percent.

In 1985, an estimated 11.9 million arrests for all criminal infractions, except traffic violations, were recorded nationwide, an increase of 3 percent when compared to the 1984 total. During the same time period, adult arrests were up 2 percent, and those of persons under 18 years of age rose 5 percent. Nearly one-fourth, or 2.8 million, of the total arrests during 1985 were for driving under the influence and drunkenness.

Nationally, the 1985 arrest rate per 100,000 inhabitants was 5,062. When viewing the four regions of the country, the arrest rate for the Western States was 5,902; for the Southern States, 5,191; for the Northeastern States, 5,110; and for the Midwestern States, 3,996.

Arrest statistics showed that persons under 25 years of age comprised 50 percent of all arrestees nationwide. They made up 62 percent of the persons arrested for Index offenses, 50 percent of those arrested for violent crimes, and 65 percent of those arrested for property crimes.

Four of every 5 arrestees throughout the Nation were males. Both male and female arrests were on the rise from 1984 to 1985. Arrests of males increased 2 percent, while those of females were up 6 percent. Of all persons arrested, 72 percent were white, 27 percent were black, and the remainder were other races. FBI

Police Apprenticeship Programs

"Police participation in the Explorer program affords the youngster an opportunity to become accustomed to police work, while developing an interest in law enforcement as a possible career."

By
FRANK RAY DEAK
Investigative Assistant
Federal Bureau of Investigation
Los Angeles, CA

[illegible] ceremonies of Exp[illegible] at LAPD Academy.

In a time of rising crime and budget cutbacks, a valuable resource is often overlooked by many police agencies—young people interested in a law enforcement career who can be effectively used as apprentices. Apprenticeship programs are designed primarily for the development of young people who will ultimately possess the necessary skills and qualifications to enter into a career in law enforcement. Such an arrangement is mutually beneficial to law enforcement, as well as to the youths involved.

"By working in a police agency, Explorers . . . develop an insight into the department's objectives and the difficulties and hazards confronting the police officer in the performance of his duties."

Mr. Deak

Explorer Programs

Some police agencies sponsor Explorer Scout programs. Law Enforcement Explorers are an advanced unit of the Boy Scouts of America whose members range in age from 14 to 18. The program originated among police departments in Southern California in the early 1960's. Today, the membership has risen to over 43,000 participants sponsored by police agencies across the Nation.[1]

Law Enforcement Explorers receive instruction on police procedures and functions. They are trained in fingerprinting, the use of firearms, first aid techniques, criminal law, and crime prevention, in addition to exposure to other aspects of police work. Police participation in the Explorer program affords the youngster an opportunity to become accustomed to police work, while developing an interest in law enforcement as a possible career.

The Los Angeles Police Department (LAPD), a long-time sponsor, considers the program, which is made up of about 600 Explorers, to be a successful endeavor. Candidates attend the police academy for a total of 12 weekends, where they undergo physical fitness training and take basic courses in law enforcement. Upon successful completion of training, they become registered Explorers and are assigned to 1 of the 18 LAPD/Explorer posts located citywide. Each post is staffed by an LAPD officer who serves as an advisor.

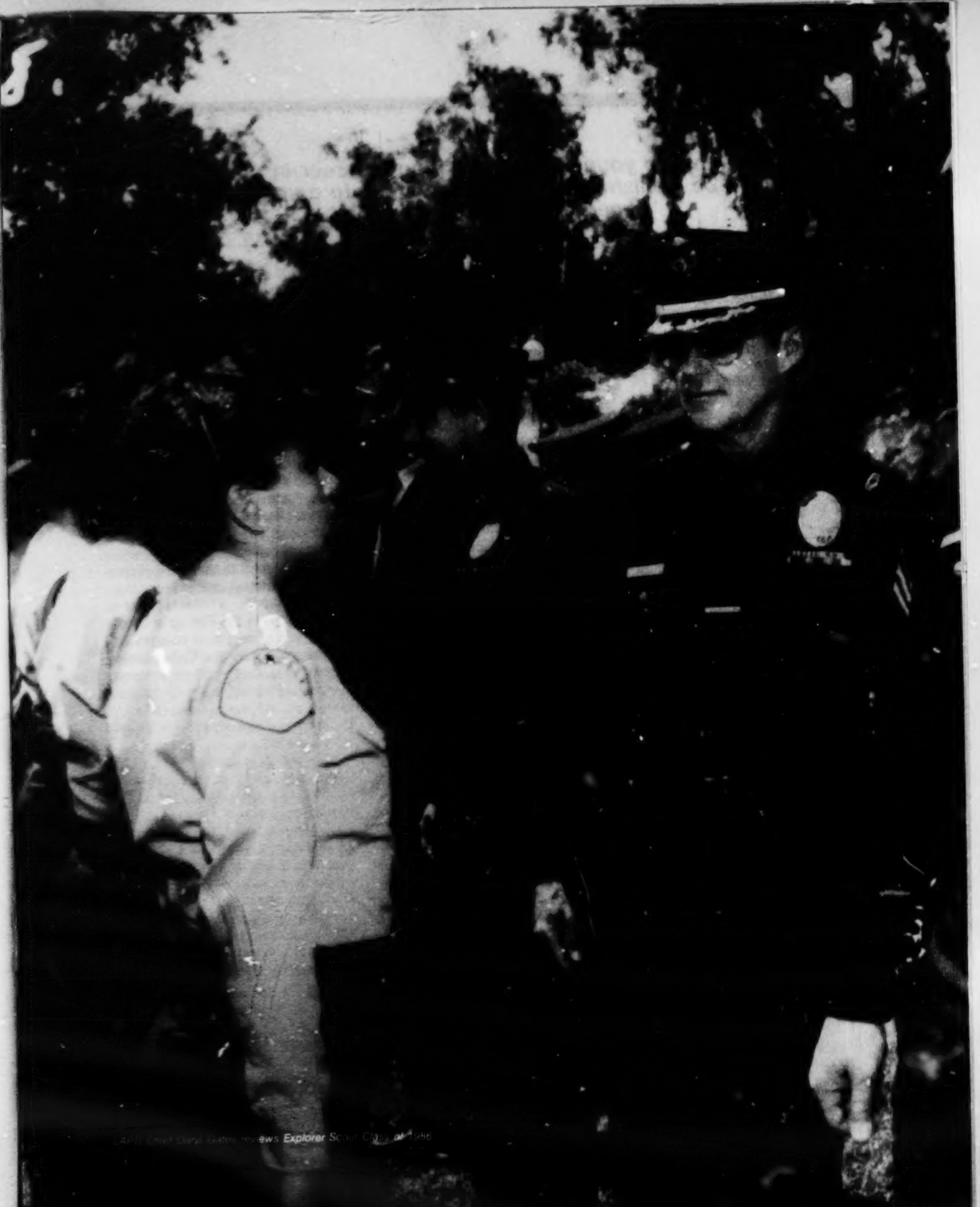
LAPD Explorers perform many of the duties regularly assigned to sworn officers, such as crowd control, crime prevention instruction, and licensing of bicycles. During the 1984 Summer Olympic Games in Los Angeles, Explorer units assisted with security duties. In terms of cost-effectiveness, they worked over 145,000 man-hours in fiscal 1984, resulting in a savings of over $2.5 million to the Los Angeles Police Department.[2]

The Los Angeles Sheriff's Office (LASO) also sponsors an Explorer program with over 350 Explorers. In fiscal 1984, sheriff's Explorers worked 25,650 man-hours performing station functions and spent 39,181 man-hours on duties which would otherwise have to be performed by deputies. Altogether, Explorers saved the sheriff's office over $1.1 million during the period.[3]

By working in a police agency, Explorers learn leadership qualities and develop good citizenship and character traits, while acquiring an awareness of civic responsibility. They develop an insight into the department's objectives and the difficulties and hazards confronting the police officer in the performance of his duties. In this way, Explorers experience both the advantages and drawbacks of a career in police work before they become police officers.

Participation in the Explorer program is also a rewarding activity for many police officers. Officers have contact not only with the community youth but often with youngsters who are having difficulty with life. The police officers can provide counseling and guidance for troubled youngsters, improving the image of police and helping the youngster become a better citizen.

Most of the financing for an Explorer program is acquired through fundraising. Insurance for Explorers is provided by the Boy Scouts of America organization. Although Explorers do not receive pay for their duties, they do



LAPD Chief Daryl Gates reviews Explorer Scout Class of 1986

"Highly motivated young people desiring a career in police work should be furnished with the opportunity to gain firsthand experience in the profession."

receive school credit for their participation and are eligible for annual scholarships awarded by the J. Edgar Hoover Foundation, the U.S. Secret Service, and the Bureau of Alcohol, Tobacco and Firearms.

Police Cadet Programs

The Beverly Hills, CA, Police Department has instituted a "police cadet" program which is geared toward college students between the ages of 18 and 23. Cadets are given paid, part-time jobs with the department, on the condition that participants attend college and carry a minimum of nine units per semester while maintaining at least a 2.0 grade point average.

The philosophy behind the cadet program is to prepare young people for future service in the department as a police officer. In order to realize this goal, cadets work on a rotating basis until they are familiar with all of the functions of the department. Assignments include work in the training section, records department, traffic division, communications unit, and the identification and detective bureaus. Cadets are subject to a bi-monthly evaluation by their supervisor, who is an officer with the department. Cadets also receive college credit for their work experience.

Like the LAPD and LASO, the Beverly Hills Police Department has viewed its apprenticeship program as beneficial for several reasons. First of all, police officers are released from time-consuming duties and may be fielded elsewhere. In addition, many cadets stay with the program and eventually become officers with the department.

The Metropolitan Police Force of London, England, has also established a police cadet program. Boys and girls who are of good character, good education, and are physically fit are recruited into the program. They attend law, criminal justice, and general education courses, which are taught by a very competent staff. Academic studies are augmented by physical education and outdoor activities, in order to prepare them for the challenge of police work.

The London Metropolitan Police Force's cadet program evolved from a network of Boy Clerks employed by numerous police agencies in Great Britain during the early 1930's.[4] The department has recognized the program as a valuable form of pre-service training and involvement with the community. Although there was some initial opposition to the establishment of the cadet system on the grounds that it incorporated a sense of narrow-mindedness among the cadets by depriving them of the benefits of associating with their peers in other walks of life, this pitfall is solved through skillful and innovative training.

Another police department which has police cadets is that of the city-state of Singapore. Youths who are attending secondary schools and who display enthusiasm for police work are eligible to enter the Police Cadet Corps. They are trained under the direct supervision of officers of the volunteer special constabulary, who are also school teachers. Cadets learn the intricacies of police work by attending classes in law and police work, in addition to participating in physical fitness training.

The major goals behind the formation of the Singapore Police Cadet Corps were to dissolve the barriers between the people and the police department and to implant a sense of discipline and camaraderie among youth, while establishing a broader sense of responsibility and comprehension of police duties by the general community. The Police Cadet Corps has succeeded in all these respects and is being expanded.

Intern Programs

Apprenticeship programs are also available at the Federal level in law enforcement, although to a lesser extent than local programs. The majority of these Federal apprenticeship programs are aimed at college and graduate students interested in law enforcement as a career.

The Federal Bureau of Investigation has implemented an Honors Internship Program, in order to foster future interest in the FBI as a career among young people in colleges and universities across the United States. Appointments to the 10-week Honors Internship Program are extremely selective and are based upon academic achievement, in addition to life and work experiences.

Following appointment as an FBI intern, individuals are assigned to a headquarters division based upon their educational major and area of interest. Each intern is under the supervision of the assistant director of the division to which he or she is assigned. Interns perform a wide variety of duties, such as conducting feasibility studies, researching legal issues, or working on translation assignments. Other FBI interns may conduct studies of terrorists or prepare analyses of organized crime.

Conclusion

Support from all levels of law enforcement is obviously necessary if apprenticeship programs are to develop. That law enforcement apprenticeship programs have not only existed but have grown is clear evidence that police agencies find value in having students devote a portion of their time working as apprentices.

There are three major reasons for their endorsement. First, police agencies have jobs that need to be accomplished. They find police apprentices able and enthusiastic workers who are willing to learn. Second, apprenticeship programs have long been recognized by police departments as a recruitment vehicle for full-time personnel. On the average, many apprentices return to their sponsoring agency as permanent employees upon graduation or meeting age requirements. Finally, another benefit of any agency's use of police apprentices is the strengthening of relations between the police and the community.

Today, more than 16,000 municipal, county, State, and Federal law enforcement agencies exist in the United States. However, fewer than 1,800 police agencies participate in any type of Explorer program.[5] Local chapters of the Boy Scouts of America can assist police agencies interested in establishing Explorer programs. Other departments should take the initiative and create police cadet and internship programs.

Highly motivated young people desiring a career in police work should be furnished the opportunity to gain firsthand experience in the profession. More must be done to develop these young people into career professionals. If they have to wait until reaching 21 or over before they can become police officers, they may be lost to the police profession forever. FBI

Footnotes

[1] Brian Archibauld, Boy Scouts of America, Law Enforcement Explorer Program, Irving, TX, 1986 Membership statistics.

[2] Personal communication with Explorer coordinator of the Los Angeles Police Department, 1984 station statistics.

[3] Personal communication with Explorer coordinator of the Los Angeles Sheriff's Department, 1984 station statistics.

[4] James Kramer, *World's Police* (London, England: Cassell & Company, Limited, 1964), pp. 53–54.

[5] Supra note 1.

Bureau of Justice Statistics Annual Report

The Bureau of Justice Statistics (BJS) of the U.S. Department of Justice has released its first annual report. The report is organized around the key issues facing criminal justice policymakers today, including victims, sentencing, prison crowding, etc. Each of these sections presents the most current national data available on the subject and summarizes BJS data collection and analysis activities on the topic.

The report also describes BJS services that are available to State and local officials and the public. These include the Justice Statistics Clearinghouse, at which a person knowledgeable in criminal justice statistics can be reached by a toll-free telephone line. This person can respond to requests for statistical information and mail out publications, usually at no cost to the person making the request.

Of particular interest to State and local officials should be the section describing State-level criminal justice statistical activities. In most States, there is an agency that serves as a statistical resource to the State in much the same way that BJS serves the Nation. This section concludes with narrative descriptions highlighting criminal justice statistical activities in individual States during the fiscal year. The narratives were provided by the State statistical agencies.

A special section of the report describes the "new initiatives" undertaken by BJS during the fiscal year to improve existing data series and to develop new data collection efforts where little or no statistical information currently exist. Single copies of the report are available free of charge from the Justice Statistics Clearinghouse, National Criminal Justice Reference Service (NCJRS), Box 6000, Rockville, MD, 20850. The clearinghouse can also be reached by a toll-free telephone number (800) 732-3277. Persons in Maryland and the Washington, DC, metropolitan area should dial (301) 251-5500. Please cite the report's number, NCJ-100182, when ordering.

Tactical Driving

A Multifaceted Approach

"A multifaceted, systematic approach allows each agency to deal with tactical driving in a manner which best suits their specific needs."

By
SCOTT A. CUNNINGHAM
Training Detective
Tampa Police Academy
Tampa, FL

—"Officer down. Officer needs assistance"! Backup units begin to respond in emergency mode from every possible direction and distance.

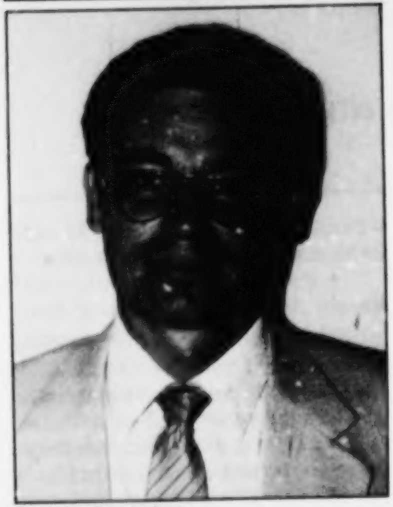
—Several heavily armed suspects have just robbed a bank. Responding units are advised automatic weapons are involved and shots have been fired.

—"Lincoln - 3, I'm in pursuit, northbound on Florida Avenue. . . ."

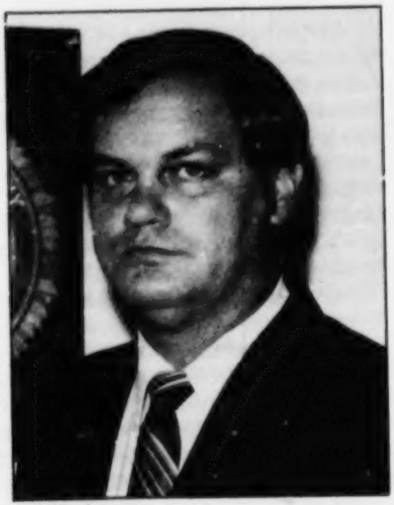
The common factor in each of these situations is tactical driving. If law enforcement agencies have a multifaceted approach to tactical driving, their personnel are better prepared to act and to make the appropriate decisions.

Each day, up to 1,370 "hot pursuits" occur in the United States.[1] These pursuits are predominantly for traffic-related offenses, but an ever-increasing number are for serious crimes such as bank robbery and murder. Prime examples are the robbery of the Security Pacific Bank in Norco, CA, in May 1980, and the pursuit of several bank robbery suspects by FBI Agents in Miami, FL, in April of this year.

Added to these pursuits is the unknown number of times law enforce-



Detective Cunningham



Don Newberger
Chief of Police

ment personnel respond in an emergency mode to other calls for service, including major accidents and disasters, officer needs assistance, and crimes in progress. As is evident, law enforcement personnel engage in tactical, emergency driving virtually on a daily basis.

This is not surprising, considering the large number of motor vehicles in use today. The main reason law enforcement began to use motor vehicles was to pursue serious offenders who used vehicles to effect their escape and to respond quickly to emergency situations. From the beginning, police motor vehicles were intended for tactical driving situations; however, only recently have personnel been trained in tactical driving techniques. Much of this has been brought about by civil lawsuits and injuries that resulted from emergency driving incidents.

The Tampa Police Department has recognized the need for tactical driving training, as have other law enforcement agencies. Because of the constant evolution of society, technology, and analyzed factual data, this training has evolved into a multifaceted approach. This approach is in compliance with standard 22.3 of the National Advisory Commission on Criminal Justice Standards and Goals,[2] and various standards of the Commission on Accreditation of Law Enforcement Agencies, Inc., but specifically standards 41.2.8 and 41.2.9.[3]

The hazards of emergency operation of a police vehicle can be grouped into three broad areas:

- —Injuries resulting from vehicle accidents,
- —Effecting stabilization/neutralization of the incident/suspects, and
- —Legal (civil lawsuits and criminal charges).

Each area must be considered when dealing with tactical driving.

Policy

The first phase of this multifaceted approach is a written policy. Each agency must clearly define its policy regarding tactical driving. It is as important as a deadly force policy, because the ramifications are equally severe. The Tampa Police Department's policy, entitled "Emergency Operation of Police Vehicles," covers virtually all tactical driving incidents, not just pursuits. Explained in detail are those issues which all tactical driving policies should cover—department philosophy and societal considerations, applicable State law, when to initiate emergency response, communications, number, type, and role of involved units, aerial assistance, driving tactics, including roadblocks, supervisory responsibilities, and termination of emergency driving.[4]

Training

Each recruit officer undergoes intensive tactical driving training. This includes familiarization with:

- —The dangers and statistical results of tactical driving;
- —Legal, civil, and societal considerations;
- —Vehicle and road dynamics and capabilities; and
- —Driver capabilities, attitudes, and behaviors.

The attitude of the officer is targeted, since it is very important in a stressful situation. Once the officer is familiar with this background material,

"Clear, written policies governing tactical driving situations are imperative."

intensive hands-on training is conducted. Exercises include controlled braking, perception reaction, cornering and turning, backing, and open road driving. These exercises are used as a result of constant review of data regarding the causes and types of police accidents. These causes can be divided into two categories—immediate and underlying.[5] Improper change of lanes, failure to yield right of way, following too close, careless driving, excessive speed, and improper backing are examples of immediate causes. A list of underlying causes would include lack of training, lack of experience, and lack of policy.

Original training is supplemented during the 40-hour annual inservice training sessions. This refreshes and updates driving skills, keeping the officer continually aware of current tactics and considerations. Without continually revised and updated information and techniques, training becomes quickly antiquated and personnel revert back to natural instinct. Also available are specialized advanced training courses which provide 40 hours of intensive tactical driving skills and attitude training.

It is important to stress that during each phase of this training, departmental policy must be covered. Part of the training process is to advise the student of what is acceptable and what is not. Therefore, it is important that the policy be clear and taught in the various training phases.

Bifurcated Accident Review

Each accident involving a police vehicle, whether it occurred during a pursuit, emergency response, or routine patrol, is carefully scrutinized. The accident is reviewed by a traffic accident review committee composed of personnel of various ranks and from various divisions.[6] This review focuses on the training aspect. Could training have prevented this accident or can training prevent a reoccurrence? Was the officer at fault, not at fault, or were individual actions a contributing factor?

This committee forwards its findings to the involved officer's division commander and to the training bureau. A recommendation for remedial training may be included in this report and may specify what remedial training is needed based on the type of accident, contributing factors, and all circumstances surrounding the accident.

The other review mechanism occurs through the chain of command and may rely on the report of the traffic accident review committee. This review determines whether departmental policy was violated. If policy was violated, the chain of command ascertains what discipline would be appropriate based on the circumstances of the incident, the history of the employee, and the discipline administered for similar occurrences.

The review committee enables the agency to examine each accident in depth, allowing for peer input. An analysis of all accidents provides current data needed to update, and revise as needed, departmental policies and training programs. Analysis of departmental accidents is synthesized with data from other sources, giving a clearer picture of current trends, tactics, philosophies, and considerations.

Safe Driver Recognition

In an effort to encourage safe driving, personnel who have no at-fault accidents for a 3-year period receive special recognition, which includes documentation in the employee's evaluation and personnel jacket, as well as a paid day off.[7] This serves to reinforce positively safe driving habits.

Recent Developments

Recognizing the need for skilled police instructors to conduct the various training courses, the Tampa Police Academy, in conjunction with the Pinellas County, FL, Police Academy, created a tactical driving instructor's course. This 40-hour course teaches potential instructors the necessary skills to conduct tactical driving training for their various agencies. The most current data available were used to formulate the driving exercises, making them directly related to potential situations which could be confronted today. Teaching skills in and out of the classroom are emphasized as well, preparing the instructor to deliver quality, coherent instruction. This is one of only five courses recognized by the State of Florida for certification as a tactical driving instructor.

High-powered, exotic, and automatic weapons have begun to play a larger, more deadly role in vehicle pursuits. These weapons have created a need for modified tactics in vehicle pursuits and emergency responses. These recent events make this painfully evident:

> The Norco, CA, bank robbery of May 1980, involved automatic, high-powered, and exotic weapons. Responding and pursuing units were met with intensive fire that destroyed several police vehicles and wounded several officers. The vehicles offered little protection, with many taking fire from one-half mile away. One airborne helicopter was disabled by rifle fire. When the suspects stopped suddenly, the primary pursuit vehicle was ambushed as it rounded a curve; the officer was killed.

The McDonald's shooting in San Ysidro, CA, in July 1984, involved automatic weapons. Responding units were fired upon as they arrived, forcing them to move back and seal off a nearby interstate.

Most recently, in April 1986, in Miami, FL, 5 FBI Agents were wounded and 2 others killed following a pursuit of two bank robbery suspects. When the suspect vehicle crashed, the suspects jumped from their vehicle, opening fire upon the Agents who were exiting their vehicles.

In each case, law enforcement personnel exercised extreme care during the response, subsequent pursuits, and attempted apprehensions. The use of automatic, high-powered weapons by the suspects was the main factor that determined the outcome.

Training must be revised to meet these situations which are becoming more prevalent. New, innovative techniques and tactics are required, since many suspects and most terrorists know and study police response tactics. Responding units must be prepared for the possible use of these types of weapons.

Ground units must be able to communicate clearly with air units. A circuitous communications path partially contributed to the death of the officer in the Norco bank robbery. Heavier reliance on and use of air units is needed. This will enable responding units to be better advised of access routes and particularities of the area and allow them to continue pursuit while remaining out of sight of the suspect vehicle.

Apprehension tactics must also be revised to counteract automatic weapons. Preparing for sudden stops and subsequent ambushes must be part of all training. In one-man vehicles, all effort is directed toward driving the vehicle safely. Even in multiperson vehicles, shooting from a moving vehicle is extremely hazardous, and in most cases, is against departmental policy.

The average law enforcement vehicle and officer are not equipped to combat heavily armed suspects. Although continued training will go a long way, additional equipment may be necessary. In many cases, specially trained teams are available, but the initial responding officers should be capable of surviving until these teams arrive.

Summary

No longer should law enforcement personnel operate a police vehicle without tactical driving training. The risks are too great; the potential for harm too serious. Tampa's multifaceted approach reduces these risks as much as possible.

Clear, written policies governing tactical driving situations are imperative. The duties of all personnel need to be clearly detailed, since each agency has needs peculiar and specific to its situation. Each agency must clearly define its position and procedures regarding tactical driving incidents. However, no matter what the policy, legal and societal considerations must be included.

A review of police-involved accidents ensures that officers are complying with departmental policies and that the policies are current and appropriate to meet agency and societal needs. Any deficiencies in the individual or overall training can be recognized and corrected by such a review, and training can be revised to reflect current trends and considerations. This becomes extremely important when new hazards are confronted, such as the use of automatic weapons.

A multifaceted, systematic approach allows each agency to deal with tactical driving in a manner which best suits their specific needs. Following this approach enables each agency administrator to be confident that he has done all that is possible to ensure the safety of the public and the officer.

FBI

Footnotes

[1] Edward F. Fennessy, Center For The Environment And Man Inc., "A Study Of The Problem Of Hot Pursuits By The Police (Washington DC: US Department of Transportation, July 1970), p. 2.

[2] National Advisory Commission on Criminal Justice Standards and Goals, U.S. Government Printing Office, 1976, pp. 537-540.

[3] Commission on Accreditation of Law Enforcement Agencies, Inc., standards manual, April 1984.

[4] Tampa Police Department Operations Manual, June 1985, Standard Operating Procedure No. 386.

[5] Tampa Bay Tactical Police Driving Instructors Course, manual, 1985, p. 58.

[6] Tampa Police Department Operations Manual, June 1985, Standard Operating Procedure No. 609.4.

[7] Tampa Police Department Operations Manual, June 1985, Standard Operating Procedure No. 662.1.

Book Reviews

by SA Thomas J. Deakin
Editor, *FBI Law Enforcement Bulletin*

The first book on police science reviewed in the *FBI Law Enforcement Bulletin* was *Crime, Crooks, and Cops*, by August Vollmer and Alfred E. Parker in the January 1938, issue. This review of a work by the man who has been called the "father of American policing" was followed by periodic reviews of books of interest to law enforcement, including V.A. Leonard's *Police Communications* in 1939.

During World War II reviews became less frequent until January 1945, when they ceased to run in the Bulletin. Today's advanced educational achievements of police officers and the changing nature of American policing dictate that the Bulletin again fulfill this responsibility of a professional journal: to keep our readers aware of the newest and best books in the police science field. Therefore, the Bulletin staff is reinstituting the practice of publishing, on an occasional basis, reviews of books that the staff believes would be of interest to members of the law enforcement profession. These reviews should not be construed as endorsements of the books by the FBI; they are strictly for the information of criminal justice practitioners and educators.

Authors and publishers of works about law enforcement are invited to forward review copies of their books to the *FBI Law Enforcement Bulletin*, FBI Headquarters, Washington, DC, 20535. In addition, our readers are invited to call to the staff's attention any new works in the field that they believe would be of interest to the profession.

The New Blue Line: Police Innovation in Six American Cities, Jerome H. Skolnick and David H. Bayley, The Free Press, 1986 ($18.95).

The premise of this book is that a new approach to traditional policing is being tried in a number of American cities, which the authors define as generally community-oriented, crime-prevention-oriented policing, and the purpose of their work was to determine whether it was effective and how it was working. Under grants from the National Institute of Justice and the Police Foundation, the authors examined the philosophy today in some cities across America—Santa Ana and Oakland in California, Denver in the Rockies, Detroit in the industrial Midwest, Houston in the Sunbelt, and Newark in the East.

"Overall, we saw a shift away from a distant, technically oriented professionalism of the early 1960's toward a more community-oriented, crime-prevention-oriented policing." Authors Skolnick and Bayley continue: "The often fascinating historical and operational details of how this movement developed, what it looks like in practice, and what it represents for the future of policing are what this book is about." Jerome H. Skolnick is a sociologist and a professor of law and David H. Bayley is a political scientist and a professor of criminal justice. Both have written before on law enforcement, but they note that when they "undertake a study such as this we become the students, the police and the local citizens our teachers."

The six chapters on the cities surveyed cover what the police are doing in each city—and how the community is involved and reacts. Frustrating to a study such as this is the fact that the crime rate depends on so many variables that the effectiveness of the new styles of policing often cannot be measured in this traditional way. But effectiveness of police can be measured, too, in terms of community trust and approval and by reduction of the "fear of crime." By this standard "community-oriented policing" has some impressive successes.

The book's future impact will probably be judged on the concluding chapter, "Prospects for Police Innovation," well-written as is the whole work. It sets out the various elements or thrusts of this new orientation: police-community reciprocity, decentralization of command, reorientation of patrol, and civilianization. But the authors, not being historians, or perhaps from lack of space, neglect the historical analysis that these elements of policing were practiced before professionalism began to develop at the outset of the 20th century. However, The *New Blue Line* does cover the community dissatisfaction with police in the 1960's which caused this type of reorientation of policing.

Best of all, these academic authors recognize the elements that are *required* for this type of innovation: the police chief's wholehearted commitment to this approach; the chief's ability to motivate department personnel, continuing defense of the new methods, and the public's support.

The history of American policing has been dominated by the question of "what do the public want from their police?" In the last half of the 19th century, politicians set the parameters. Then new political forces urged professionalism for their own reasons, which police executives soon co-opted for their purposes. The insight developed in this book is that police executives can influence not only their own personnel but the public as well to not only continue professionalism, but fight crime, and render the preventive services the public expects. The authors may be correct in their belief that this will be the prevalent mode of policing in the next century, especially given the changing nature of America's cities.

COPS: Their Lives in Their Own Words, Mark Baker, Simon and Shuster, 1985 ($16.95). Also available in paperback, Pocket Books, $4.50.

Dedicated to "a good police officer and a fine human being," the author of *Nam* does it again, this time with police officers. Mark Baker is a free-lance journalist, not a police officer. So this book is based on interviews of over a hundred police officers—in metropolitan areas, small towns, black and white officers, both male and female, rookie's and veterans. The 6-day rookie's experience with a "mental" on a Sunday afternoon is a classic.

The book will be of interest to the public, should be read by police commanders long removed from the street to refamiliarize them with today's rank an file attitudes, and should be required reading for law enforcement students. But it will probably be most read by the half million or so "working cops" in our profession, perhaps because the book's final story, about a police killing and the witness who came forward, tells us why we stay in this profession: "It's people who keep you in this game. Long after you're completely disaffected with society as a whole, the majority of people you encounter, you always think of those few good people."

Police Passages, John G. Stratton, Ph.D., Glennon Publishing, Manhattan Beach, CA, 1984 ($24.95).

Author and police psychologist Stratton, with the Los Angeles County Sheriff's Department for over 10 years, has written an outstanding contribution to our understanding of police psychology. The California Peace Officers Research Association cogently observed: "A copy of Dr. John Stratton's *Police Passages* should be issued to every newly hired police officer along with the badge. It will be helpful to every police officer who reads it."

Dr. Stratton, a contributor to the *FBI Law Enforcement Bulletin* since 1975, covers all the phases ("passages") of the police officer's career, from the application process, through the training period, the initial years on the street, the stress that officers face throughout their careers, marriages, command problems, officer-involved shootings, alcoholism, and retirement.

There are several factors that point up Dr. Stratton's objective, yet sympathetic, view of police. His long service with his department, his many contributions to the Bulletin, referencing other Bulletin and *Police Chief* articles, and, finally, his view that psychology cannot provide all the answers, it can only help to understand the problems. For example, on the police application process, Dr. Stratton notes that psychologists "must make theirs a more exact science." Psychologists cannot tell, at this time, who would have a "healthy" cop personality at the time of application, or more important, who would stay "healthy" throughout their career.

With all the concern about police stress today, the author makes the important observation that of those officers involved in shooting incidents, one-third have minimal problems afterwards. Another one-third have moderate reactions, and the last third have severe difficulties that can affect their families. The chapters on police marriages and on women and minorities are co-authored by Barbara Tracy-Stratton, the author's wife, and are particularly good at outlining the purpose of today's marriages.

The final chapter on "Police Widows—The Forgotten Ones" also breaks new ground for police and the author's afterword on grief, entitled "Roy," shows an eloquence we seldom see in our profession. The California police group was right, issue this book with the badge.

The Constitution and Criminal Procedure

"... our Constitution ... stands without equal as an instrument of government and is a fitting monument to the genius and foresight of those who wrote it."

By
JOHN C. HALL
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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

The year 1987 marks the Bicentennial of the U.S. Constitution. For 200 years that document has charted the course by which American Republic has developed and matured. Under its influence and guidance, there has arisen a body of laws, unequaled in human history, to balance the prerogatives of government against the liberties of the individual. This article is respectfully dedicated to the memory of those men who gave us this Constitution 200 years ago, and to the men and women in law enforcement today who have committed themselves to uphold it.

On September 1, 1982, Santa Clara, CA, police officers received an anonymous tip that an individual named Dante Carlo Ciraolo was growing marijuana in his backyard. Because the yard was completely enclosed by two fences, which obstructed observation from the street level, the officers flew over the property in a small airplane and observed the marijuana from that vantage point. Using the information thus obtained, the officers acquired a search warrant and seized 73 marijuana plants, each 8–10 feet in height. Ciraolo was convicted under California law for cultivating a controlled substance, but his conviction was overturned by the State appellate court on the ground that the aerial surveillance of his property violated his constitutional rights. On May 19, 1986, the U.S. Supreme Court held that the overflight was permissible under the fourth amendment to the U.S. Constitution, and the evidence was therefore admissible against Ciraolo at his State criminal trial.[1]

This case, and the process by which it was resolved, would present several surprises to the framers of our Constitution. Obviously, they would not yet have heard of a State called California and would undoubtedly be impressed with the technology which made the overflight of a person's property possible. They probably would be more than a little surprised to learn that the same hemp plant which they had used to make rope, and which had been a major cash crop at such notable places as Mount Vernon, had not only acquired a new name but also a new usage, and was now declared to be contraband. But even beyond these points, perhaps the most puzzling of all would be the knowledge that a local police case could be reviewed by the U.S. Supreme Court and that provisions found in the Federal Bill of Rights would govern its outcome. Such an occurrence would not have been possible in their day. The purpose of this article is to trace the development of the process which made it commonplace in ours.

Special Agent Hall

A MORE PERFECT UNION

When the delegates met in Philadelphia in the summer of 1787 to begin work which produced the present Constitution, they were fully aware of the difficult task which confronted them. Their recent past had defined it clearly enough: To establish a central government possessing sufficient power to govern, but without the capacity to become a tyranny.

As men who had been born into the rich heritage of English history, they laid strong claim to those principles of self-government and personal liberty, which had begun to take tangible form in England with the Magna Carta in 1215, and continued with a persistent, if somewhat halting, development into the unwritten English constitution and common law of their own day. The central theme of this development may be found in the following portion of the Magna Carta:

> "No freeman shall be taken, or imprisoned, or be disseized of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any other wise destroyed, nor will we pass upon him, nor condemn him, but by lawful judgment of his peers, or by the law of the land."[2]

Scholars correctly point out that the Magna Carta, at the time it was written, was nothing more than a contract forced upon an unwilling king by the landed barons of that day demanding recognition of their privileges. It is also true that the document says nothing of the principles of democratic government or the rights of man. With the passage of time, however, it took on a meaning far beyond its original purpose, for it came to represent the principle that there is a law which is above the King and which even he must not break. Winston Churchill once wrote concerning the significance of the Magna Carta:

> "Government must henceforward mean something more than the arbitrary rule of any man, and custom and the law must stand even above the King.... This reaffirmation of a supreme law and its expression in a general charter is the great work of Magna Carta; and this alone justifies the respect in which men have held it."[3]

It is perhaps one of the great ironies of history that the American Revolution was inspired by *English* principles of liberty. When the Americans claimed protection against taxation without representation, or unreasonable searches and seizures, they were only asserting the rights which they had come to expect as good Englishmen. Again, it was Winston Churchill—son of an English father and an American mother—who expressed this point in response to a question concerning the American war for independence:

> "Revolution against the English? Nay, it was a reaffirmation of English rights; Englishmen battling a Hun king and his Hessian hirelings to protect their English birthright ... a scene not unfamiliar to English-speaking peoples...."[4]

Undoubtedly, his statement would have won the approval of many Englishmen of the Revolutionary War period.

Nevertheless, the demonstration during the pre-Revolution period that fundamental rights, so deeply rooted in the customs and laws of the people, could be so readily disregarded by the government persuaded the Americans that a new course must be pursued. There must be a written

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constitution—a document which would clearly mark the boundaries of government power and to which the government could be held accountable. Their first effort—the Articles of Confederation—was a failure. Written during the heat of the war, when suspicion of a strong central government was at its height, the Articles established a government that was ill-equipped to govern. There was a single-house legislature—the Continental Congress—made up of delegates selected by the State governments, not the people; it had no power of direct taxation, no authority to regulate commerce among the States, and no power to enforce its own laws. Consequently, the central government, such as it was, depended heavily upon the goodwill of the sovereign States for the performance of the most basic of functions.

Thomas Jefferson probably expressed the views of many when he wrote, "I own I am not a friend to a very energetic government. It is always oppressive."[5] Accordingly, the central government lacked power as well as energy, and this defect became apparent when the war with England ended and the common interest in defense, which had bound the separate States together during the conflict, was removed.

It was against the background of these recent experiences that the delegates did their work in Philadelphia. The creation of a Federal Government composed of three branches and the distribution of the functions and powers of government among the three independent branches, with the resulting system of checks and balances, were the result of their labors. The newly created government now had the power to regulate interstate commerce, to impose direct taxes, and enforce its own laws. It could exercise those powers—but only those powers—set forth in the new Constitution, which would henceforth be "the Supreme law of the Land." To preclude recurrence of some of the abuses suffered under the English, the new government was specifically prohibited from enacting bills of attainder and *ex post facto* laws and from suspending the writ of habeas corpus, except in cases of emergency. The crime of treason, used with such ingenuous flexibility by the King and Parliament to quell political dissent throughout English history, was moved beyond the reach of the new government by fixing its definition in the Constitution itself.

A BILL OF RIGHTS

Notwithstanding the great achievement, there were many who saw in the document, and the government it created, the seeds of future tyranny. A bill of rights should be added to prevent such an occurrence. Against this view was the argument that since the new government could only do what the Constitution clearly permitted, a bill of rights would be superfluous. That view was little consolation to those who feared that the new Constitution—which would now be the "Supreme law of the land"—could be someday broadly interpreted to grant the very powers which they believed should be prohibited. Joseph Story, who served on the Supreme Court from 1811–1845, summarized these thoughts when he wrote:

> "... a bill of rights may be important, even when it goes beyond powers supposed to be granted. It is not always possible to foresee the extent of the actual reach of certain powers which are given in general terms. They may be construed to extend [and perhaps fairly] to certain classes of cases, which did not at first appear to be within them. A bill of rights, then, operates as a guard upon any extravagant or undue extension of such powers."[6]

Thomas Jefferson added his strong voice in support of a bill of rights. After expressing general approval of the new Constitution, he wrote:

> "Let me add that a bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse....[7] The inconveniences of the Declaration [of Rights] are that it may cramp government in its useful exertions. But the evil of this is short-lived, trivial and reparable. The inconveniences of the want of a Declaration [of Rights] are permanent, afflicting and irreparable."[8]

The proponents of specific safeguards were adamant. What the King and Parliament had once done, the President and Congress could yet do. A bill of rights must be added. In fact, so strong was the sentiment for a bill of rights, that many of the States, when ratifying the new Constitution, urged upon the new Congress the submission of amendments to accomplish that object. Accordingly, the first Congress to meet following the adoption of the new Constitution submitted 12 amendments to the States, 10 of which were ratified by 1791, and the first 8 of which we now know as the Bill of Rights.

Included among the provisions were three which would, in time, have great impact on criminal law enforcement: The fourth amendment restrictions on searches and seizures, the fifth amendment protection against compelled self-incrimination, and the sixth amendment guarantee of the right to counsel in criminal cases. Each of these provisions reaffirmed values which were deeply rooted in American custom and law, and their disregard by the Crown and Parliament had done much to fan the flames of revolt among the colonists.

Unreasonable Searches & Seizures Prohibited

Chief among the evils which affronted the Americans was the use of general warrants and writs of assistance by agents of the Crown to enforce unpopular customs laws. These general warrants were repugnant for a variety of reasons: They were universal in nature, authorizing anyone to execute them; their execution was not limited by any time frame; and they authorized broad searches which were unconstrained by particular descriptions of places to be searched or persons or things to be seized and unsupported by sworn statements of fact to justify their issuance and execution. The right to be free from unreasonable government intrusions while in one's own home was a fundamental tenet of English custom predating even the Magna Carta, and while not always scrupulously respected by the Crown, it was nonetheless treasured by the people. In 1763, at a time when the arbitrary actions of the English Government were sowing the first seeds of revolt in America, William Pitt made this celebrated statement to the House of Commons:

> "The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail—its roof may shake—the wind may blow through it—the storm may enter, the rain may enter—but the King of England cannot enter—all his force dares not cross the threshold of the ruined tenement."[9]

During the same year in England, that statement of principle found tangible expression in successful lawsuits against officers of the Crown who either issued or executed general warrants in violation of it, and by 1766, Parliament had declared general warrants illegal in the mother country. However, they continued to be used in America—to the chagrin of the colonists—with the result that in the words of John Adams, "Then and there the Child Independence was born."[10] The experience has been memorialized in the words of the fourth amendment:

> "The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Compelled Self-Incrimination Prohibited

Less directly related to the underlying causes of the Revolution, but no less important in the minds of most Americans, was the protection against compelled self-incrimination found in the fifth amendment. Early in English history, there had developed a particularly obnoxious entity called the Court of the Star Chamber. Originally intended to mete out swift justice to robber bands and other common criminals who preyed upon the good folk of the realm, it eventually grew into a dreaded instrument of the government to ferret out and punish political dissenters. Its method included the oath *ex officio*, which required a person suspected of crime to answer all questions put to him by the court. There was no jury, and physical torture was not unheard of as a means of encouraging cooperation. As might be expected, the Court of the Star Chamber was highly successful in obtaining convictions, and that success encouraged other English courts to borrow its tactics. For example, in 1615, Edward Peacham was accused of treason. Prior to his trial in the Court of Kings' Bench, the Attorney General, Sir Francis Bacon, made the following report to King James I:

> "Upon these interrogatories, Peacham this day was examined before torture, in torture, between torture and after torture; notwithstanding, nothing could be drawn from him, he still persisting in his obstinate and insensible denials, and former answers."[11]

Even though the Court of the Star Chamber had been abolished by the time of the Revolution, and its evil influences largely removed from the English courts, its memory remained to influence the men who sought to establish an instrument by which the power of government could be constrained. If a man could not be compelled to convict himself with his own words, then the government would bear the whole burden of proving his

"...criminal procedure—the means by which government forces its criminal laws—has now been elevated to constitutional status."

guilt through other independent evidence, and the incentive to use such means as torture would hopefully be removed. It was with that object in view that the fifth amendment was written to affirm: "No person ... shall be compelled in any criminal case to be a witness against himself."

The Right to Counsel

Although the right to counsel could be found in English law, the right to counsel in *all* criminal prosecutions was peculiar to America. Under English law, an accused was allowed counsel in misdemeanor, but not felony, cases. The only exception to this rule at the time of the Revolution was the right to counsel when a defendant was charged with treason. Nevertheless, at the time the Bill of Rights was adopted, 12 of the 13 original colonies had granted the right to counsel in all criminal cases, and the inclusion of that right in the sixth amendment reflected the value attached to it in that day. The pertinent language reads: "In all criminal prosecutions ... the accused shall enjoy the right to ... have the assistance of counsel for his defense."

LIMITED APPLICATION

Important for the future development of the country was the fact that these treasured rights and some 25 others set forth in the Bill of Rights—e.g., freedom of religion, speech, press, and assembly—were limited in their application to the Federal Government. Any doubts which may have existed on this point at the time they were adopted were removed in the Supreme Court's 1833 landmark decision of *Barron* v. *The City of Baltimore.*[12] Rejecting the argument that the City of Baltimore was bound by the fifth amendment to the Federal Constitution, Chief Justice John Marshall wrote:

> "... it is universally understood, it is a part of the history of the day, that the great revolution which established the Constitution of the United States was not effected without immense opposition. Serious fears were extensively entertained that those powers ... deemed essential to union, and to the attainment of those invaluable objects for which union was sought, might be exercised in a manner dangerous to liberty. In almost every convention by which the Constitution was adopted, amendments to guard against the abuse of power were recommended. These amendments demanded security against the apprehended encroachments of the general government—not against those of the local governments."[13]

That was probably considered to be of little importance by most people at the time, since most of the States had their own constitutions with their own bills of rights containing similar language to that of the Federal charter. The result, however, was the development of diverse systems of justice, fostered by the lack of a common standard and by the seemingly unlimited interpretations which could be applied to the same words and principles by different courts. In the absence of a specific constitutional grant, the Federal Government was without power to impose a uniform standard upon the sovereign States. The significance of this point lay in the fact that within our Federal system of government, the administration of criminal justice is predominantly committed to the care of the States. Thus, the greatest law enforcement power—that which resides in State and local government—was unrestrained by the Bill of Rights.

DUE PROCESS—THE LAW OF THE LAND

The first step toward change came with the adoption of the 14th amendment in 1868, just 3 years after the Civil War ended. In many respects that war was merely the climax of a long series of challenges to the capacity of the Federal Government to maintain the Union in the face of persistent assertions of sovereignty by the individual States. Now that the issue had been settled to some extent by the war, it seemed fitting to establish a means by which some common meaning could be given to the principles which had brought the Union into being. Aimed directly at the States, the 14th amendment declared: "... nor shall any state deprive any person of life, liberty, or property without due process of law...."

"Due process" was a familiar term to those even vaguely familiar with English and American history. In England, by the year 1354, it had come to be synonymous with the "law of the land" mentioned in the Magna Carta; while in America, it had already been absorbed into several State constitutions and specifically placed in the fifth amendment to the Federal Constitution as a restriction on the power of the Federal Government. Unfortunately, the shifting tides of English law and custom had precluded the development of any precise definition of the term, and its incorporation into the fifth amendment to the American Constitution, among numerous other specified rights, camouflaged its significance and presented little opportunity, or apparent need, for further definition in this country. It appeared to be a general—albeit important—expression of principle rather than a guarantee of anything specific.

The 14th amendment would change that; for now there was a common standard—due process—by which both Federal and State power could be measured and restrained. And equally important, there would henceforth be one arbiter—the Supreme Court of the United States—to give meaning to that standard. Nevertheless, change would come slowly.

It was supposed by some that adoption of the 14th amendment would make the rights guaranteed against the Federal Government by the Bill of Rights equally applicable against the States. However, that view was rejected by the Supreme Court. As an alternative, the Court adopted the position that due process included those principles—but only those principles—which are "so rooted in the traditions and conscience of our people as to be ranked as fundamental."[14] Consequently, due process came to be described by the Court in such terms as "fairness,"[15] or principles which are "implicit in the concept of ordered liberty,"[16] or "canons of decency and fairness which express the notions of justice of English-speaking peoples. . . ."[17] These concepts do not necessarily include all that is in the Federal Bill of Rights.

But with the passage of time, and within the framework of these general expressions, the Due Process Clause of the 14th amendment came to bear a remarkable resemblance to the Federal Bill of Rights. The following cases will serve to illustrate the point.

In 1932, seven young, indigent, illiterate black men were convicted in Scottsboro, AL, of raping two white girls. Despite their inability to defend themselves or to hire counsel, no effective steps had been taken by the trial court to provide the assistance of counsel to conduct their defense. The Supreme Court reversed the convictions on the grounds that the denial of effective counsel in a criminal case violated the Due Process Clause of the 14th amendment, not because that right is guaranteed by the 6th amendment, but because the Court considered it to be fundamental to the principles of liberty and justice.[18]

In 1936, two black men in Mississippi were convicted of murder and sentenced to death. The evidence against them consisted of their confessions, which had been extracted through a process of alternately hanging them and then beating them with a large belt. At their trial, which occurred a day and a half following their arrests, the rope marks were still visible on their necks. Not only they, but a deputy sheriff who directed and participated in the "interrogations," testified as to the manner in which the confessions were taken. The deputy described the beatings as "not too much for a negro; not as much as I would have done if it were left to me." Despite this testimony, and the fact that Mississippi law prohibited the use of an accused's coerced confessions at his trial, the State supreme court in Mississippi upheld the convictions. The U.S. Supreme Court reversed them, not on the grounds that the fifth amendment prohibits compelled self-incrimination, but because the extraction of confessions by torture was considered by the Court to violate due process.[19]

In 1949, a California man, suspected by local police of selling narcotics, was arrested in his home without a warrant. At the time of his arrest, he swallowed some capsules despite the efforts of the police to stop him. He was then taken to a hospital where his stomach was pumped and partially dissolved capsules containing morphine were found. That evidence was used to convict him in State court. The U.S. Supreme Court reversed, not because the actions of the police violated the fourth amendment protections against unreasonable searches and seizures, but because their conduct "shocks the conscience" and therefore violates due process.[20]

In each of these cases, the Court was careful to point out that the basis for reversal was not because the State actions had violated some provisions found in the Bill of Rights, but because they violated rights which were considered to be fundamental to the American concept of justice. In other words, while disclaiming any intent to incorporate the Bill of Rights into the Due Process Clause of the 14th amendment, the Court ingeniously allowed the Due Process Clause to "absorb" certain principles which just happened to be in the Bill of Rights as well. Supreme Court Justice Cardozo, writing in 1937, explained the process in this fashion:

> "These [rights] in their origin were effective against the federal government alone. If the Fourteenth Amendment has absorbed them, the process of absorption has had its source in the belief that neither liberty nor justice would exist if they were sacrificed."[21]

"...virtually every aspect of an officer's job touches that area where the authority of government and the liberty of the individual meet."

This so-called "absorption" doctrine soon gave way to a more-direct approach—"selective incorporation." By this process, the Court would selectively incorporate certain provisions found in the Bill of Rights into the 14th amendment Due Process Clause, thus applying them to the States. For example, in 1949, the Court held that the fourth amendment was applicable to the States through the Due Process Clause.[22] Similarly, in the years which followed, the Court held that certain provisions of other amendments were also applicable to the States, including the sixth amendment right to the assistance of counsel in a criminal prosecution (1963)[23] and the fifth amendment privilege against compelled self-incrimination (1964).[24]

Each of these provisions directly impacts upon law enforcement—local and State, as well as Federal—and establishes a common boundary beyond which government power cannot go. In other words, criminal procedure—the methods by which government enforces its criminal laws—has now been elevated to constitutional status. Thus, the Supreme Court's interpretations of the fourth amendment, the fifth amendment privilege against compelled self-incrimination, and the sixth amendment right to the assistance of counsel in criminal prosecutions are now as relevant and important to the local police officer as they are to their Federal counterparts.

CONCLUSION

Today, every law enforcement academy in America provides training in constitutional law, because virtually every aspect of an officer's job touches that area where the authority of government and the liberty of the individual meet. Arrests, searches and seizures, investigative detentions, eyewitness identification, interrogations—all of these everyday law enforcement tasks, and more, are governed by the Federal Constitution. Under their own constitutions, the States may provide greater protections to their people; but by virtue of the Due Process Clause of the 14th amendment, they cannot provide less.

As we consider the Bicentennial of the Constitution, it is interesting to speculate about how the framers would view the long-term results of their labor if they could see it today. That they succeeded in their overall objective of forming "a more perfect union" could not be doubted. That they wisely separated and balanced the powers of government among the three branches would also be an undoubted source of satisfaction. An independent judiciary, a smooth process of transition from one administration to another, the built-in guarantees of a republican form of government, the successful amendment process—all of these would surely be cause for pride. But perhaps their greatest pleasure would be derived from the knowledge that the Constitution which they wrote 200 years ago has become firmly rooted in our National consciousness. Its precepts influence the way we think about ourselves, our fellow man, and our Government. Even without thinking, we instinctively know it is there, towering above the President, the Congress and even the Supreme Court, and only we can change it. We may from time to time quarrel with its interpretation . . . we seldom quarrel with its content.

It is true that other countries have constitutions, some containing language similar to our own. There is a difference, however, which transcends any similarity in content—our Constitution deeply affects the manner in which we think and live and govern ourselves. Its infuence on our lives has increased steadily with time. It stands without equal as an instrument of government and is a fitting monument to the genius and foresight of those who wrote it.

FBI

Footnotes

[1] *United States* v. *Ciraolo*, 39 Cr.L. 3106 (1986).

[2] Irving Brant, *The Bill of Rights* (Mentor, 1965), pp. 89–90.

[3] Winston S. Churchill, *A History of the English-Speaking People* (Bantam Books, 1956), p. 186.

[4] James C. Humes, *Churchill, Speaker of the Century* (Stein & Day, 1980), p. 287.

[5] Thomas Jefferson, letter to James Madison, December 1787, quoted in *Jefferson Writings* (The Library of America, 1984), p. 917.

[6] William F. Swindler, *The Constitution and Chief Justice Marshall* (Dodd, Mead & Co., 1978), p. 112.

[7] Thomas Jefferson, letter to James Madison, December 1787, *supra* note 5.

[8] Thomas Jefferson, letter to James Madison, March 1789, *supra* note 5, p. 944.

[9] *See Miller* v. *United States*, 357 U.S. 301, at 307 (1958).

[10] *See Boyd* v. *United States*, 116 U.S. 616, at 625 (1886).

[11] Irving Brant, *The Bill of Rights* (Mentor, 1965), p. 95.

[12] 7 Peters 243 (1833).

[13] *Id.* at 250.

[14] *Snyder* v. *Massachusetts*, 291 U.S. 97 (1934).

[15] *Duncan* v. *Louisiana*, 391 U.S. 145, at 149 n. 14 (1968).

[16] *Palko* v. *Connecticut*, 302 U.S. 319, at 325 (1937).

[17] *Malinski* v. *New York*, 324 U.S. 401, at 416 (1945).

[18] *Powell* v. *Alabama*, 287 U.S. 45 (1932).

[19] *Brown* v. *Mississippi*, 297 U.S. 279 (1936).

[20] *Rochin* v. *California*, 342 U.S. 165 (1952).

[21] *Palko* v. *Connecticut*, *supra* note 15, at 326.

[22] *Wolf* v. *Colorado*, 338 U.S. 25 (1949).

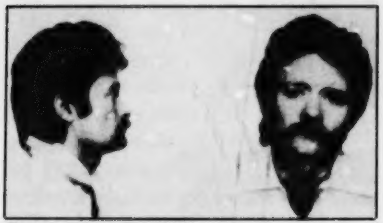
[23] *Gideon* v. *Wainwright*, 372 U.S. 335 (1963).

[24] *Malloy* v. *Hogan*, 378 U.S. 1 (1914).

WANTED BY THE FBI

Any person having information which might assist in locating these fugitives is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Because of the time factor in printing the FBI Law Enforcement Bulletin, *there is the possibility that these fugitives have already been apprehended. The nearest office of the FBI will have current information on the fugitives' status.*



Photographs taken 1979

Charles Earl Hammond,

also known as Charles Hammond, Charles E. Hammond, "Curly," "Lefty." W; born 12-16-42, Seattle, WA; 5'6"-5'7"; 130-155 lbs; med bld; brn hair; hzl eyes; med comp; occ-laborer, roofer, truck driver, welder; scars and marks: heavily tattooed on upper portion of body, dragon on right bicep; remarks: reportedly walks with a slight limp, may be accompanied by his wife. Wanted by FBI for INTERSTATE FLIGHT-ASSAULT WITH A DEADLY WEAPON.

NCIC Classification:

181714POPO16121[illegible]PI

Fingerprint Classification:

18 L 10 U OOO
M 6 U OO1

I.O. 4871

Social Security
Number Used: [illegible]7-44-6333

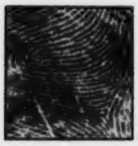
FBI No. [illegible] 274 D

DISMISSED

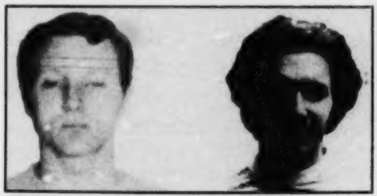
Caution

Hammond, a reported user and distributor of narcotics, is being sought in connection with a multiple homicide in which five persons were shot to death and another wounded. Hammond may be accompanied by his brother, Michael F. Hammond, FBI Identification Order 4872. Each man has been armed with a .45-caliber handgun in the past and should be considered armed and extremely dangerous.

FBI TOP TEN FUGITIVE



Right middle fingerprint



Photographs taken 1978 and 1979

Francis Lionel Vercauteren,

also known as Francis Nicosia, Francis Prior, Francis L. Vercauteren. W; born 10-31-46, Methuen, MA; 5'10"; 180 lbs; med bld; brn hair; hzl eyes; med comp; occ-construction worker, furniture mover, laborer, police officer, truck driver; scars and marks: scar on left cheek, scar on outer right forearm. Wanted by FBI for INTERSTATE FLIGHT-ESCAPE.

NCIC Classification:

22631717091962131613

Fingerprint Classification:

22 M 1 R OOO 9 Ref: 9 1 9
L 1 R OOO 1 2 2

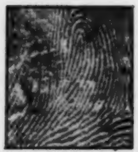
I.O. 4864

Social Security
Number Used: 026-34-1855

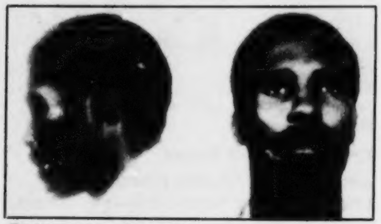
FBI No. 582 331 G

Caution

Vercauteren, who is being sought as a prison escapee, was serving a lengthy sentence for murder, kidnaping, and rape. Vercauteren escaped by attacking a guard, rendering him unconscious. Consider Vercauteren armed, dangerous, mentally unstable, and an escape risk.



Left middle fingerprint



Photographs taken 1984

Robert Lee Bunner,

also known as Robert Lee Banner, Robert Lee Buner, Robert Bunner, Robert L. Bunner, Robert Lee Burner, Robert Miller, Robert Lee Miller, Robert Oiller, Robert Lee Turner, and "Esau." N; born 6-20-50 (data not supported by birth records), 6-29-50, 2-17-51, 6-29-51; Montezuma, GA; 6'1"; 160 lbs; slender bld; brn eyes; med comp; occ-laborer; scars and marks: seven marks on left wrist, burn scar on left wrist, two round burn scars on right leg. Wanted by the FBI for BANK ROBBERY; PAROLE VIOLATOR.

NCIC Classification:

12181709050808060704

Fingerprint Classification:

12 M 1 U OO1 5
S 1 U 111

I.O. 4988

Social Security
Number Used: 257-80-4348

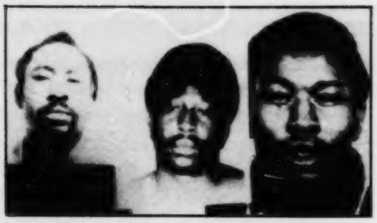
FBI No. 388 089 G

Caution

Bunner has been convicted in the past of armed robbery, aggravated assault, bank robbery, kidnaping, and conspiracy. He may be armed with a handgun and has vowed not to be taken alive. Bunner should be considered armed and extremely dangerous.

Right ring fingerprint

WANTED BY THE FBI


Photographs taken 1977 and 1979

Charles Edward Reese,
also known as Charles Edward Reece, Charles Edward Reed, Charles E. Reese, "Doc." N; born 5-5-50, Vicksburg, MS; 5′10″ to 6′2″; 160-185 lbs; mus-med bld; blk hair; brn eyes; drk brn comp; occ-checker, laborer, mechanic, messenger; scars and marks: dark mole over left eye, scar left lower back; tattoos: "LaVora" left arm, "Doc" right arm, bull on left chest;
remarks: reportedly is asthmatic, wears prescription tinted glasses, squints when not wearing glasses, may alternate between clean shaven and wearing full face beard. Wanted by FBI for INTERSTATE FLIGHT-RAPE, SODOMY, ARMED ROBBERY, BURGLARY.

NCIC Classification:
CMTT04080908AA071109

Fingerprint Classification:

$$\frac{\text{4 M 1 T 11 9}}{\text{S 17 A 11}}$$

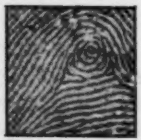
I.O. 4857

Social Security
Numbers Used: 552-68-7230; 552-68-7238; 558-72-7800; 572-68-7230

FBI No. 461 731 G

Caution

Reese is being sought in connection with a violent crime spree which includes the crimes of armed robbery, burglary, kidnaping, murder, and sexual assaults in which firearms were used. Reese has been armed with a shotgun in the past and should be considered armed and extremely dangerous.


Right thumbprint

Photograph taken 1974

Joseph Nicholas Crisafi,
also known as Al Alddan, William J. Bray, Joseph Dipalo, Joseph Prisafi, Joseph John Prisaufi, Joseph Prisaffolli, Ernest Rousseau, Frank Tolido, Joseph Nicholas Trisafolli, Joseph Nicholas Trisafulli, Frank Wilson, and others. W; born 4-15-31, Brooklyn NY; 5′8″-5′9″; 130-160 lbs; med bld; brn-graying hair; brn eyes; med comp; occ-cook, drapery hanger, floor covering mechanic, salesman; scars and marks: scars on left middle finger, both knees, left leg from knee to hip, and left side of stomach; crossed right eye; large front upper teeth and extensive bridge work; second toe on right foot missing; tattoos: heart and flowers, "JOE," "JOHN," and "MOM" on upper left arm; remarks: Crisafi, a heavy gambler who poses as a prospective home buyer and advertising producer, is believed to be accompanied by Carol L. McCarthy, white female, born June 11, 1961, Denver, CO, 5′2″, 115 lbs., brn hair, brn eyes. McCarthy is also being sought by the FBI. Wanted by the FBI for INTERSTATE FLIGHT-AGGRAVATED SEXUAL ASSAULT, ARMED ROBBERY.

NCIC Classification:
24TT13171922TTTT2016

Fingerprint Classification:

$$\frac{\text{24 L 1 T 19}}{\text{L 1 Tt}} \quad \frac{\text{R T R}}{\text{T U U}}$$

I.O. 4868

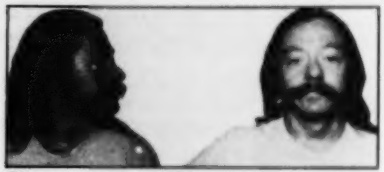
Social Security
Number Used: 091-24-7799

FBI No. 808 809 B

Caution

Crisafi, who has been known to carry a gun in the past, is being sought for the aggravated sexual assault of a real estate sales woman. He is also being sought by local authorities for additional sexual assaults. Crisafi should be considered armed and dangerous.

Right middle fingerprint


Photographs taken 1977

Michael F. Hammond,
also known as Charles Earl Hammond, Michael Allen Hammond, Michael Frederick Hammond, Michael Frederick Hammond, Michael Frederick Allen Hammond, Michael Frederick Hammond, Michael Fredrick Allen Hammond, Mike Hammond, "Red." W; born 1-3-45, Redding, CA; 5′5″; 145-150 lbs; med bld; red hair; bl eyes; fair comp; occ-laborer, roofer, welder; scars and marks: scar left side of stomach; tattoos: cross on left arm, "MOM" on right arm. WANTED by FBI for INTERSTATE FLIGHT-ASSAULT WITH A DEADLY WEAPON.

NCIC Classification:
130603191[illegible]1309

Fingerprint Classification:

$$\frac{\text{13 [illegible] 11O 11}}{\text{[illegible] U 111}}$$

I.O. 4872

Social Security
Numbers Used: 497-44-5623; 486-44-5623

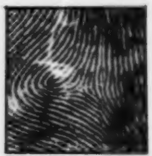
FBI No. [illegible]69 004 E

DISMISSED

Caution

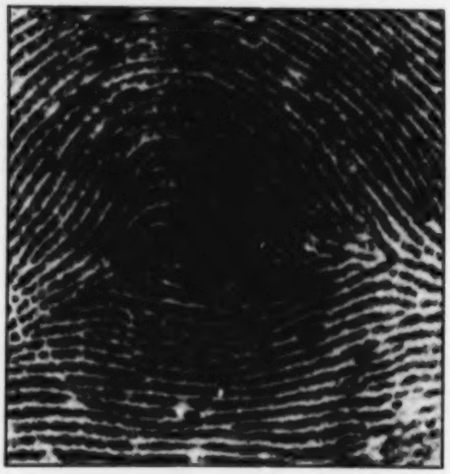
Hammond, a reported user and distributor of narcotics, is being sought in connection with a multiple homicide in which five persons were shot to death and another wounded. Hammond may be accompanied by his brother, Charles E. Hammond, FBI Identification Order 4871. Each man has been armed with a .45-caliber handgun in the past and should be considered armed and extremely dangerous.

FBI TOP TEN FUGITIVE


Right middle fingerprint

Unusual Pattern

The classifier would closely examine the unusual ridge configuration of this impression before determining pattern type. The ridges enter upon one side, make a rise or wave in the center, and flow or tend to flow out on the opposite side; thus, this impression is classified as a plain arch. It does not possess an angle, upthrust, or two of the three basic requirements of a loop and cannot be classified as a tented arch.



Change of Address

Not an order form

FBI

Law Enforcement Bulletin

Complete this form and return to:

Director
Federal Bureau of
Investigation
Washington, DC 20535

Name

Title

Address

City State Zip

U.S. Department of Justice
Federal Bureau of Investigation

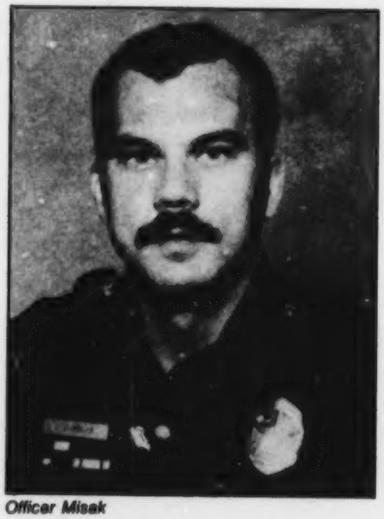
Second Class Mail
Postage and Fees Paid
Federal Bureau of Investigation
ISSN 0014-5688

Washington, DC 20535

Official Business
Penalty for Private Use $300
Address Correction Requested

The Bulletin Notes

Officer Jack Misak, Dallas, TX, Police Department, chased a burglary suspect on June 28, 1985, who tried to escape by wading across a lake, although he could not swim. When the suspect reached deep water, he panicked, so Officer Misak had to dive in the lake and rescue him. The suspect later credited Officer Misak with saving his life. The Bulletin joins the Dallas Police Department in recognizing this officer's lifesaving conduct.



Officer Misak

55/10

FBI

Law Enforcement etin

October 1986

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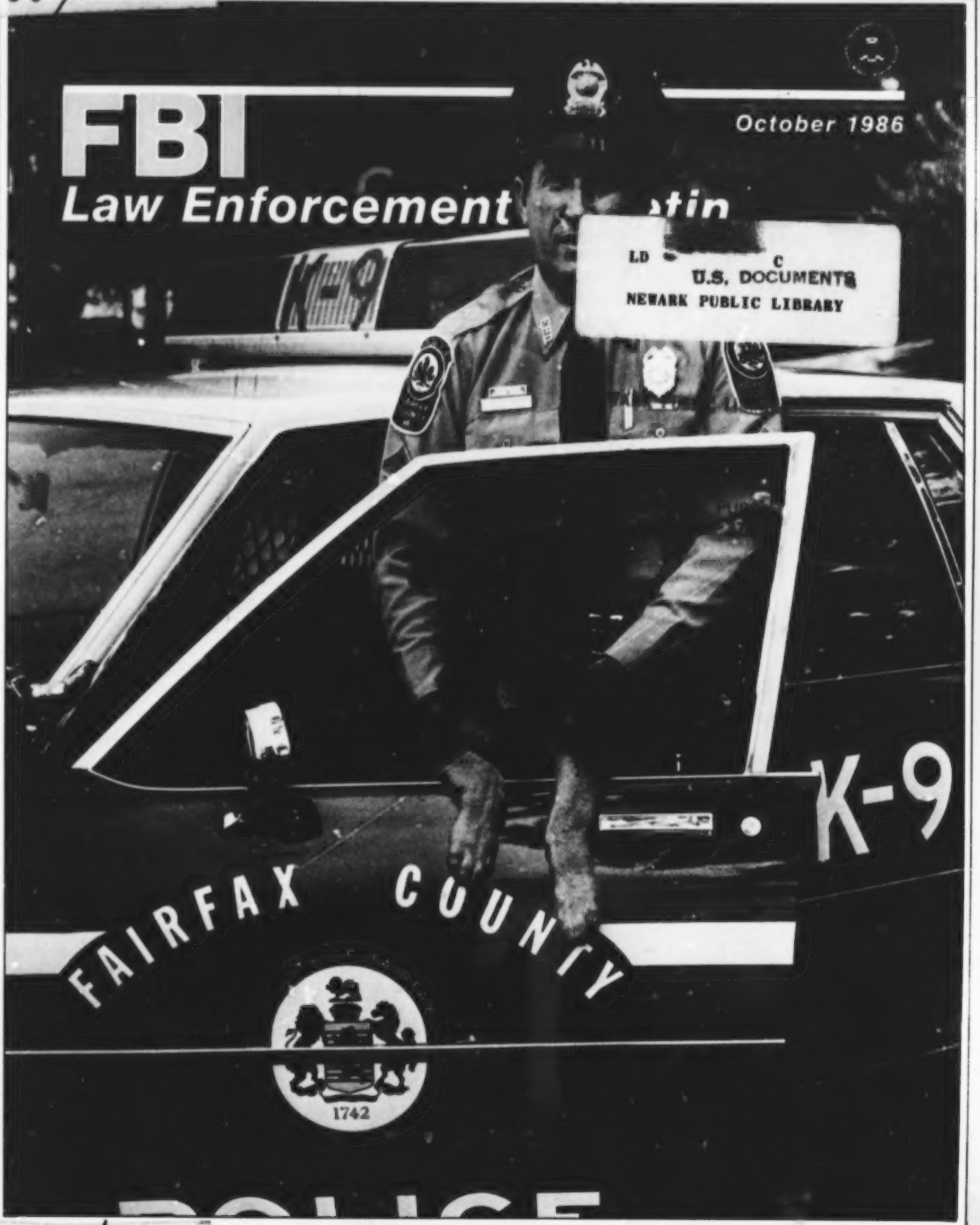
U.S. DOCUMENTS
NEWARK PUBLIC LIBRARY


K-9
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FAIRFAX COUNTY
1742
POLICE

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The Cover:
Fairfax County, VA, police officer Shelby Bailey with "Casey Kelly," newest member of the department's K-9 Corps. The pup, donated by a firm that breeds German shepherds from original bloodlines, is the first to be raised by the department in an effort to cut the cost of selecting a suitable adult dog.

FBI
Law Enforcement Bulletin

United States Department of Justice
Federal Bureau of Investigation
Washington, DC 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 6, 1988.

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Director's Message

President Reagan noted in 1981 that "It is my firm belief that the answer to the drug problem comes through winning over the users to the point that we take the customer away from the drugs." The administration and Congress are today embarking on new efforts to combat the drug problem, as the demand for drugs is at an all-time high.

We must reduce this demand for illegal drugs through the education of our young people. No one is more aware of this need than the law enforcement community. Even as long ago as 1936, August Vollmer, the "father of modern police science," wrote:

> "Drug addiction ... is not (solely) a police problem; it never has been ... education of the masses is the keynote, first to cure or alleviation, and ultimately to prevention."

Vollmer, as Chief of Police in Berkeley, CA, for almost 30 years after the turn of the century and then a professor of police administration, had experience with his era's limited drug abuse.

Education, I believe, is at least 50 percent of the long-term solution to this Nation's epidemic of drug abuse. Law enforcement has already begun to work with school systems in this regard. The February issue of this Bulletin featured an article on Operation SPECDA (School Program to Educate and Control Drug Abuse), which is a cooperative effort of the New York City Police Department and the Board of Education to reach elementary school children. In New York City, police and educators, working together, "provide help and support to youngsters to assist them in resisting drug involvement."

August's Bulletin article by Los Angeles Police Department's Chief Daryl Gates, described private support of crime prevention efforts in that California city. One program supported was the Drug Abuse Resistance Education (DARE) program, a joint effort of the Los Angeles police and the Los Angeles Unified School District. This effort also uses uniformed officers to teach elementary school-age children the skills needed to avoid drugs.

Today, law enforcement professionals realize that crime control must include various crime prevention programs that include cooperative efforts from the citizens law enforcement serves. The Drug Enforcement Administration embarked on a Sports Drug Awareness Program in 1984, with excellent cooperation from the professional athletic community. The FBI enthusiastically joined the Drug Enforcement Administration in this effort. And now the program has been extended to include amateur athletes in schools, where one tragedy this year underscores the need for this work.

Other law enforcement groups, such as the International Association of Chiefs of Police, are now advising on this program. Because sports figures today are the role models for so many young people, we hope that reduction of drug usage among athletes will deter youngsters from imitating their heroes in this self-destructive type of behavior.

I urge police administrators across our Nation to examine the drug control efforts of their departments and to consider, in cooperation with local school officials, taking August Vollmer's advice on the education answer to this problem. Vollmer pioneered education for police officers themselves; the whole law enforcement community is in his debt for this. This country's largest police departments and Federal agencies responsible for drug enforcement believe that the drug abuse that so afflicts our Nation can be attacked through education to substantially reduce the demand upon which it feeds.

William H Webster

William H. Webster
Director
October 1, 1986

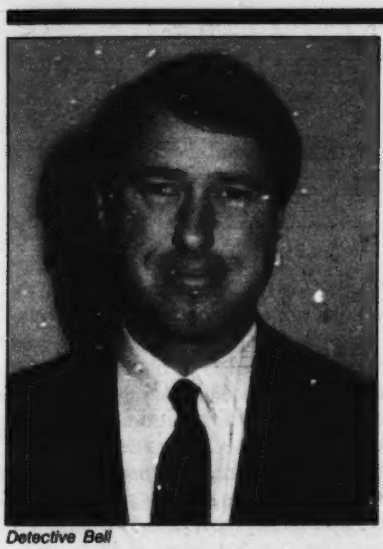
"Police Beat"

"... cable programming offers a unique opportunity for law enforcement agencies to meet the dual challenge of providing information to, and seeking the assistance of, their communities."

By
DET. TOM BELL
Media Relations
Police Department
Arlington County, VA

Cable television has brought a new dimension of entertainment and knowledge into American households. It has also enabled local governments to disseminate information as never before. School systems, libraries, consumer groups, and others are taking advantage of the vast opportunities available through cable television. These same opportunities are also available to law enforcement agencies, if they can meet the challenge of developing interesting and informative programs. All that is required for cable television to be effective are a commitment of time, personnel, and adequate funding.

The Arlington County, VA, Police Department became interested in using cable television in 1983. At that time, Arlington County cable programming was virtually nonexistent, and funding for new projects was quite limited. Despite these difficulties, the police department's Crime Resistance Unit was determined to develop a program which would provide Neighborhood Watch groups and residents with information about crime in their areas.



Detective Bell

William K. Stover
Chief of Police

Neighborhood Watch started in Arlington in 1980, when burglaries were rising at an alarming rate. Now, 6 years later, the burglary rate has dropped substantially. The more than 200 Neighborhood Watch groups in Arlington must receive partial credit for this reduction. These groups include approximately 10,000 households or 10 percent of all homes in Arlington County.

To participate in Neighborhood Watch in Arlington, the home owner must submit to a home security survey and mark all valuables in accordance with the Operation Identification Program. At least 75 percent of all homes in a particular neighborhood must sign up before that neighborhood can be designated a Neighborhood Watch community. Then, they may purchase a Neighborhood Watch sign for $37, which the county installs.

The smallest Neighborhood Watch group in Arlington consists of 3 homes, while the largest group has approximately 500 homes. None of these groups participate in active patrolling; rather they simply call the police whenever suspicious activity is spotted. However, they need information from the police department to be effective—this information is available on "Police Beat."

"Police Beat" is a made-for-cable television show which made its debut in March 1985. Each show is repeated on an average of 10 times during the month, at different hours, in order to reach the largest audience possible. Its primary purpose is to provide Arlington citizens with information about crimes that have been committed in their neighborhoods, possible suspects, and the methods of operation employed by these suspects. The show also provides the department with an opportunity to inform the public of its many ongoing activities and services.

"Police Beat" is based on the premise that people are concerned about crime and want to assist law enforcement officials in controlling crime in their neighborhoods. There are four segments to each program—crime reports, crime prevention tips, wanted persons, and a special feature.

Each "Police Beat" program begins with a crime report in which an officer from the department's Crime Analysis Unit describes some of the crimes that have taken place during the past 30 days. The crimes selected to be aired on the program are usually high visibility crimes that show a certain pattern or those that the police department is having difficulty solving. By relaying the facts and circumstances of particular crimes, the department is alerting citizens, while seeking additional information on unsolved cases.

During the presentation, the locations of the crimes are depicted on a map or the areas are shown on video tape. Next, an officer from the department's Crime Resistance Unit suggests ways in which some of the crimes mentioned can be prevented. For example, one crime report involved a series of burglaries in an apartment complex in which the point of entry was the same—the basement window. The detective then proceeded to recommend a crime prevention device—in this case, the installation of burglary bars—which was followed by a discussion of the advantages and disadvantages of these bars. In addition, the officer often demonstrates various locking devises, alarm systems, and other crime resistance equipment and discusses ways of in-

"With adequate support and proper management, cable television can be an effective law enforcement tool."

creasing security at home and at work.

The third segment deals with wanted persons and is similar to the nationwide "Crime Solvers" Program. It consists of pictures and descriptions of persons wanted for crimes in Arlington. The special features segment focuses on various activities of the department, such as the operational aspects of using radar for speed enforcement, conducting home security surveys, or use of the 911 emergency telephone system. The length of the show ranges from 30 to 45 minutes and also includes public service announcements pertaining to public safety issues, such as driving while intoxicated, burglary prevention, and reporting crime.

The crew of "Police Beat" includes a director, producer, executive director, video technician, audio technician, teleprompter, and camera operators who perform most of the functions that are required for a commercial television show. The title "executive producer" goes to the person tasked with hiring a crew and on-screen personnel and controlling the budget. It's imperative that this person be well-versed in television production and familiar with local on-screen personnel costs.

The major difference between this production crew and one used for commercial television is that the Arlington County Police Department uses a studio and equipment that are owned and operated by the Arlington County School System for training students for a career in broadcasting. Students are used as a crew for the police production, and the on-screen personnel consist of police department employees.

"Police Beat" has endured despite a number of adversities. There has been an endless turnover of "behind-the-scenes" technicians (the good ones always graduate), guests have arrived at the last minute wearing white shirts, which is not conducive for filming, and one segment showed the host rolling his chair backwards off the stage during taping.

Costs

Cable programming can be very expensive. Unless properly managed, the cost can escalate rapidly with less than desirable results. Many local governments have started to film a show only to have it stop short of completion due to escalating costs.

Production costs deserve a great deal of attention prior to any filming. As local government operates with somewhat limited revenue, it is paramount that innovative approaches to cable programming are sought. As mentioned previously, students and police employees make up the cast and crew of "Police Beat"; the only remaining cost for our department is for the director to shoot and edit the final tape. Even so, a single show of a low-cost production such as this can cost several hundreds of dollars.

"Police Beat" is funded by the Department of Community Affairs, which oversees the cable television office. When allocating funds for such a public service message, it must be remembered that local cable television shows are competing with commercial television. Unfortunately, the cheaper the show appears, the fewer viewers it is likely to attract. To be competitive, something interesting and unique must be added to the viewer's regular television schedule, while making the show as professional as possible with limited funding.

It is difficult to measure the effectiveness of local cable programming as it does not fall under commercial television's rating system. Even when viewers are asked to offer comments, only a limited insight into the concerns and opinions of the audience will be obtained. This technique does not give the complete picture of audience size, composition, age, and location of residence. While cable television experts estimate that 3 percent of cable viewers watch local government channels on a regular basis, an effective system of viewer surveys is needed to keep the program relevant to the interests and needs of the audience.

In spite of these shortcomings, cable programming offers a unique opportunity for law enforcement agencies to meet the dual challenge of providing information to, and seeking the assistance of, their communities. With adequate support and proper management, cable television can be an effective law enforcement tool.

Ensuring Computer Security

"The main problem ... with computer crime prosecution has been lack of clear legal definitions and the resultant difficulty in convincing a judge or jury of the crime."

By
CHARLES B. CARKEEK
Computing Security Administration
The Boeing Company
Seattle, WA

EDITOR'S NOTE: This article addresses the laws enacted in the State of Washington to prosecute computer criminals. Law enforcement personnel should consult their legal advisers regarding existing and proposed individual State and Federal statutes governing the investigation of computer crimes and the subsequent prosecution of these offenders.

Computing security is the discipline by which computing systems, information, and services are protected from accidental and deliberate threats to confidentiality, integrity, or availability. As with any discipline, this demands a dedication to the fundamentals which promote appropriate application of the discipline. Private enterprise appreciates that the confidentiality, integrity, and service required for both business survival and customer loyalty must now be achieved in large part through a secure business computing environment. Yet, while private enterprise must fill the leadership role in computing security and remain on the leading edge of progress in developing technologies which prevent unauthorized system use, the private sector must be aggressively involved in creating legislation which deters and corrects such misuse.

This article describes a set of security fundamentals and their application within the framework of a structured computing security program. Also addressed is the recent Washington State legislation which provides the supporting legal basis for security control of computing resources.

Fundamentals

As the framework for the application of the computing security discipline is discussed, the following security fundamentals serve a dual role. They act as a reminder as to why various security measures are invoked and they highlight the interplay between these measures. These fundamental concepts, which are basic to security management in protecting assets, also characterize computing security. They are awareness, activity, monitoring, access control, authorization, accountability, configuration control, and recovery capability.

Framework

Prevention, detection, containment, investigation, and *correction* are the elements which comprise the framework of a disciplined and balanced computing security program. Specifically implemented measures of the program, to be effective, must be directly responsive to these elements.

Prevention

Prevention of computer misuse is the overall focus of all computing security measures. Those measures aimed

Mr. Carkeek

at detection, containment, investigation, and correction have the secondary objective of deterrence, which contributes to prevention.

Asset protection is the goal of all security management. Assets to be protected include computing facilities hardware/software, services, and information. Prevention measures must ensure a safe environment from which computing services can originate. Information must be protected from unauthorized change, in order to provide for its continued integrity and value. Some information may also require protection from unauthorized disclosure to preserve confidentiality and an enterprise's competitive position. It is a fortunate coincidence that the controls which must be invoked to provide protection from change and to preserve integrity can also provide, with almost no additional cost, the needed protection from disclosure. This fact nullifies contentions that information protection is costly. Where computing information is concerned, there is no alternative but to provide for its integrity. Information costs a great deal to gather and make useful in the management of an enterprise. Information without integrity and reliability is not information at all; it is uncertainty, the antithesis of information. Therefore, private enterprise cannot afford to fail in protecting the integrity of the information on which it relies.

Employee awareness of computing security requirements is vital to the success of the firm. All employees, regardless of their authority, must understand the reasons behind each computing security requirement so they may effectively comply with the program. In particular, each employee must be sufficiently informed in order to support prevention measures. Only by being an involved participant in the computing security program can an employee recognize as trouble indicators those circumstances which the less-informed and less-aware individual fails to note, attributes to the system's complexity, or simply accepts as normal.

Activity monitoring by management of each subordinate's actions, and by each user of his own account, is essential to a computing security program. Such monitoring must be of sufficient detail to detect when an employee is departing from established authority limits for system use or when other system behavior indicates a need for further investigation. It is important that the visibility for such monitoring be made available at the appropriate user/management levels. If an individual authorized to use a given account is provided with the time that account was last used, it is quite possible to detect unauthorized use. On the other hand, if the same visibility or some condensed form of it is presented for review only at a level above the authorized individual (where there is no first-hand knowledge of the actual behavior of the account), the opportunity to detect misuse is greatly reduced. The most effective monitoring of activity must be at two levels: The direct computing users reviewing access records for their computer accounts (data and service), and user management reviewing overall activity and resource usage of their subordinates.

Access control refers to the mechanism used to ensure that access to service and data is granted only to authorized individuals and only according to the limits (e.g., time-of-day, location, read-only) of that authorization. The automated process to verify an individual's authority is based on

"Detection of computer misuse is a capability which an enterprise achieves if prevention measures have been implemented in a disciplined manner."

identification through something known to (password), possessed by (coded card), or characteristic of (signature) an individual. Passwords are the most common form of access control and are quite safe when properly selected to be random, not obvious, and of sufficient length to confound any methodical attempts at guessing. The access control facility must include adequate provision for review, at the appropriate level, of the "access-granted" feedback, discussed previously under activity monitoring, for both service/account usage and information usage. The access control facility performs its function by referring the authorization structure established by management. It must scrutinize each access request based on that structure and record its access verification/authorization actions with adequate accountability to feed the activity monitoring function. Thus, we have a management control loop for assessing access control effectiveness. Without such a control loop, management would, in effect, be negligent in its responsibility for control of the enterprise.

Authorization is the fundamental process by which an individual is permitted to access computing service or information for which management is responsible. This is the responsibility of an individual empowered to make the necessary permission decisions. Each permission must be carefully structured as to limit the authority based on type (e.g., read-only, change, etc.), location (e.g., terminal ID or call-back phone number), and time of access. A control loop is necessary to ensure that authority is revoked or changed in a timely manner, whenever the need for access by an individual changes.

Accountability for all activities within a computing system to the individuals responsible for them must be recorded in an audit trail. The audit trail must be of sufficient detail to allow the management control loop to function effectively, both in permitting management control over authorized activity and in detecting unauthorized activity. Each fundamental element in this control loop (authorization, access control, accountability, and activity monitoring) also contributes to an overall misuse prevention capability by deterring, through its presence, the unauthorized use of computing assets.

Configuration control contributes to computing security by controlling the environment to ensure the integrity of management control loops required to achieve computing security. Through configuration control, each change in hardware and software is carefully evaluated to isolate and consider its security implications, so that the chance for adverse change to the security posture of the computer system is minimized.

Recovery capability is a valuable fundamental which, even if unauthorized system alteration were not a management concern, is necessary to preserve system availability and integrity in the face of the malfunctions which can befall a complex system. A properly functioning computing security program can indicate when intentional or accidental changes, so subtle as not to normally trigger recovery action, have occurred, which require invoking some facet of the established recovery capability.

Detection

Detection of computer misuse is a capability which an enterprise achieves if prevention measures have been implemented in a disciplined manner. But, without proper prevention measures, misuse is unlikely to be detected and can result in totally unrealized loss. Sound detection capability can serve to deter misuse in the first place, as well as prevent any misuse from further adverse impact on a system's integrity.

A detection capability is achieved only through correct application of the fundamentals to prevention, as discussed above. An enterprise must ensure that (1) *assets* are properly identified, (2) *configuration control* stabilizes and defines normality, (3) an *authorization* structure defines access privilege, (4) rigorous *access controls* enforce the authorization structure, (5) individual *accountability* for activities is preserved and recorded, (6) *activity monitoring* is responsibly conducted, (7) there is acute *awareness* of the need for computing security measures, and (8) *recovery capability* has been provided. If all these fundamentals have been implemented, an enterprise may be confident that misuse is detectable and damage may be contained.

It has been stated that "no matter how thorough the prevention measures are, there is still a weakness which can be exploited." This is a useful perspective to stimulate management in their application of the computing security discipline. However, this cliché should not be seen as justification for less than adequate prevention and detection capability.

By definition, a system misuse violates the authorization structure. This fact serves to emphasize the importance of management's responsibility to conscientiously define the authorization structure. Management must realize that this authorization structure sets the very limits of their ability to detect misuse. This authorization struc-

"... the care and professionalism which management exercises to prevent or detect system misuse provide the foundation for containing the damage and investigating the incident."

ture must be comprehensive and current. Through the capacity to detect unauthorized use quickly, change, or the denial/destruction of service, data, or software, an enterprise preserves its opportunities to (1) contain, minimize, and hopefully reverse a security breach, (2) capture and organize evidence to understand a security breach, (3) correct the circumstances which allowed the breach, and (4) prosecute individuals responsible, when appropriate, to the full extent of the law.

Containment and Investigation

From the discussion above, it is obvious that the care and professionalism which management exercises to prevent or detect system misuse provide the foundation for containing the damage and investigating the incident. Thought must be given to appropriate precoordination with local law enforcement agencies and communications service providers. Preparations must be made for the extended safe containment of an offender's system activity so that efforts to trace and gain evidence on the activity can then be completed. Readiness to display audit trails or make visible real-time activity in the most useful format must be provided.

Correction

Correction is the element by which we adjust our ability to prevent and deter. The technical and management changes which constitute this adjustment will be unique to each specific investigated problem. Where part of the corrective action involves legal remedies, recent revisions to the Revised Code of Washington provide improved opportunities to prosecute offenders.

The difficulties with successfully addressing computer crime through previously existing laws are attributable to differences in the nature of crimes involving computers when compared to other crimes. Crimes perpetrated by remote access to a computer create the need for unique forms of evidence and definition of offenses which allow an investigator to prove that there was a crime committed, as well as how and by whom. Some reasons for this are: The criminal is not physically present at the crime scene, valuable assets (information) can be taken (copied) without denying them to the legitimate owner, value of stolen computer time may not be determined, and the adverse effect of unauthorized access may not be readily apparent or demonstrated. The main problem, however, with computer crime prosecution has been lack of clear legal definitions and the resultant difficulty in convincing a judge or jury of the crime.

The passage of the recent code revisions has significantly enhanced the legal situation in the State of Washington regarding the above difficulties. The new law defines the gross misdemeanor crime of computer trespass to be simply intentional unauthorized gaining of access to a computer system. It is not necessary to show that theft or malicious mischief coincided with the access. If any other crime, or the intent to commit another crime, can be shown during access, or access was to a system maintained by a government agency, the trespass becomes a class C felony. If, during commission of computer trespass, any other crime is committed, that crime can be prosecuted separately or along with the trespass offense. The revision also alters the definition of physical damage to include computing data and services in a more-comprehensive manner than before and adds definitions for data, computer program, and access to clarify these terms. Taken as a whole, the revisions should improve the ability of enterprises to seek legal redress for attempted and actual breaches of their computing security. Only test cases will confirm how beneficial these code refinements really are in providing sufficient legal deterrent and remedy for computer crime.

Summary

Private enterprise has taken the lead in efforts to establish legislation defining the fundamental elements of computer crime and describing a framework of offenses for understanding by the courts of computer crime as an extention of traditional legal concerns. In this article, computing security has been related to a set of traditionally understood security and management fundamentals. The fundamentals have been structured into an overall framework for disciplined application. It is hoped that this discussion allows computing security to be understood and applied in terms of traditional security management.

FBI

An Alternative Approach to Investigations

By

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"Under [the unit investigative method] individual investigators [are assigned] specific investigative tasks rather than having the responsibility for the entire case."

During the first half of 1985, the Citrus County, FL, Sheriff's Department, Criminal Investigation Division, experienced a steady decline in the "clearance rate," as compared to the previous 4 years which had each produced continued increases. In an effort to address the problem, an assessment was made of the entire divisional structure, methods, and techniques.

Background

The Citrus County Sheriff's Department employs 92 sworn personnel. Its Criminal Investigation Division is organized into three sections—General

Captain Lecasse

Charles S. Dean
Sheriff

Investigations, Special Investigations, and Identification/Evidence. The General Investigations Section consists of one sergeant and six investigators and is responsible for followup investigations of Part One crimes and selected misdemeanor cases. One sergeant and three investigators are assigned to Special Investigations, which handles narcotics and vice investigations, along with other "special investigations" that may be needed. The Identification/Evidence Section is staffed by one sergeant and two investigators, who are responsible for handling crime scene investigations, evidence processing, and latent print examination. This article will specifically address the General Investigations Section, as this unit's activities most directly affect the Uniform Crime Reports clearance rate.

As is probably the case with most law enforcement agencies across the country, the General Investigations Section was organized and structured under the "traditional method" of case assignment, i.e., one case/one investigator. Under this system, the divisional commander would review all incoming cases on a daily basis, and using an informal system of "probability of solvability,"[1] would decide which cases were to be assigned for followup investigation. Those cases would then be assigned to specific investigators, usually according to geographical boundaries. The investigator was assigned a 10-day "due date," meaning that he had 10 days to conduct his investigation and submit his followup reports.

The investigative sergeant performed the daily first-line supervisory functions of reviewing investigative reports. Productivity was measured by maintaining both unit and individual statistics based on the number of cases assigned and the number of cases cleared. Quality was assessed on the basis of the written reports submitted by the investigators.

Assessment

A critical analysis of this method of case assignment and standard of measurement of productivity indicated that most investigators had developed an "assembly-line" approach to their cases. The individual clearance rate statistic appeared to promote a strong competitive atmosphere; investigators chose to work independently, which in some cases even inhibited the exchange of vital information.

Unfortunately, the actual mechanics of this system often created a 2- or 3-day delay between the time the patrol officer initiated a case and the investigator actually commenced a followup investigation. Further, except for the case assignment and report review functions, supervisors had little contact with the individual investigators or control over their investigative methods and techniques.

In short, our analysis indicated that there had to be a better way. Through researching alternatives, we became aware of the concept of "unit assignment monitoring."[2] In fact, this method had already been used on a limited number of major case investigations with excellent results.

This approach involves assigning cases to an entire unit, not individual investigators. Under this concept, after the supervisor decides which cases are to be investigated, he then assigns individual investigators to specific investigative tasks rather than having the responsibility for the entire case.

Thus, in effect, each case is investigated by all of the investigators, and the overall progress of an investi-

"... this method fostered a team spirit among the investigators and encouraged and promoted communication, cooperation, and productive interaction...."

gation is continually monitored by a supervisor. As individual tasks are completed, the supervisor makes reassignments and adjustments as necessary.

Implementation

After discussing the feasibility of adapting this concept to the everyday case load, we ultimately customized and tailored the basic concept to meet our organizational needs. The General Investigations Section was reorganized to include one sergeant, four investigators assigned to general investigation, one investigator assigned to sex crimes (due to the specialized nature of the offense), and one investigator assigned as the "duty investigator." The entire unit now reviews all cases each morning at a roll call-type briefing. Those cases to be investigated are collectively screened by the unit using the aforementioned informal system of probability of solvability, with the supervisor assuming the final authority.

Once the cases are screened, they are collectively reviewed and evaluated, with each investigator offering input to possible leads, methods, and avenues of investigation. A member of the Identification/Evidence Section also attends these daily briefings to provide information pertaining to physical evidence, etc.

After the cases are reviewed, the supervisor then assigns specific investigative activity to individual investigators, e.g., one to interview a witness, one to do a neighborhood canvas, etc. As these tasks are completed, the supervisor reviews any new information and makes new assignments accordingly. Thus, the supervisor is constantly monitoring case progress and individual performance.

Those cases that do not meet the necessary criteria for unit followup are assigned to the duty investigator. These are dead end cases that under a formal system of probability of solvability, would be placed in "file 13." The duty investigator is required to make a primarily "P.R." contact on these unassigned felony and select misdemeanor cases. Should new information develop, the sergeant may elect to assign the case to either the unit or the duty investigator. The duty investigator is also available to perform vital office functions for field investigators, e.g., record searches, etc., and to handle any incoming investigative leads. This position is assigned on a monthly rotational basis.

After this investigative concept was implemented, it became obvious that not all cases lend themselves to a full unit investigation, i.e., the investigative tasks necessary to complete followup required the attention of only one or two investigators. Assignments are therefore adjusted accordingly.

Implementation also revealed that a major factor in the success of the program is the first-line supervisor. This method of investigation requires a great deal of supervisory involvement. In effect, the sergeant is the "lead investigator" on each case. Successful implementation of this type of program requires an above-average, aggressive, enthusiastic first-line supervisor.

A disadvantage to this method that should be mentioned is court time. As more than one investigator is involved in each case, those cases that do go to trial will necessitate court appearances by all involved investigators. We have not experienced any difficulty with this aspect during our pilot program, but this area may be of concern to some agencies.

However, a distinct advantage to this is the timeliness of investigation. Whereas, under the traditional method, a 2- or 3-day delay may occur between the initial report and commencement of followup, under the unit method, followup investigations are initiated no later than 8:00 a.m. the following morning.

Results

The "unit investigative method," as we dubbed it, was implemented on a 6-month trial basis (November 1985, through April 1986). An indepth analysis revealed that as an investigative tool, this method fostered a team spirit among the investigators and encouraged and promoted communication, cooperation, and productive interaction, while taking full advantage of the collective approach to problem solving.

As a public relations tool, the effect of assigning a "group of investigators" to single cases, with resulting visible group activities, has only enhanced the public image of this department. Further, the duty investigator position has promoted unmeasurable "P.R.," since victims of cases that normally would have no followup are now being contacted. In addition, the duty investigator has averaged an almost 12-percent clearance rate on those cases that would never have been investigated.

Although the traditional standard of measurement of individual performance (to wit, the individual clearance rate) was eliminated, the supervisor is now able to control investigative techniques and methods directly, while actively monitoring individual performance and productivity on a daily basis.

The 6-month evaluation of this program revealed a marked increase in both the quantity and quality of the

"The 6-month evaluation of this program revealed a marked increase in both the quantity and quality of the clearance rate...."

Figure 1

Statistical Analysis

	Assigned	Unfounded	Actual	Ex. Cleared	Arrests	Total	%
Program Period							
Nov. 85	83	10	73	13	13	26	35.6
Dec. 85	62	4	58	26	11	37	63.8
Jan. 86	81	7	74	12	6	18	24.3
Feb. 86	73	8	65	28	8	36	55.4
Mar. 86	88	7	81	35	14	49	60.5
Apr. 86	100	2	98	27	11	38	38.8
Totals	487	38 (7.8%)	449	141 (69.1%)	63 (30.8%)	204	45.4%
				(% of Cleared)			
Same Period Previous Year							
Nov. 84	57	7	50	11	4	15	30
Dec. 84	73	8	65	13	1	14	21.5
Jan. 85	86	5	81	14	10	24	29.6
Feb. 85	91	4	87	17	4	21	24.1
Mar. 85	77	14	63	10	4	14	22.2
Apr. 85	69	12	57	12	8	20	35.1
Totals	453	50 (11%)	403	77 (71.3%)	31 (28.7%)	108	26.8%
				(% of Cleared)			

clearance rate, while developing a visual rise in esprit de corps. The overall UCR clearance rate for the unit increased 18.6 percentage points over the same reporting period for the previous year, notwithstanding an 11-percent increase in the actual case load. The number of cases being unfounded decreased 3.2 percentage points, while the number of exceptionally cleared decreased 2.2 percentage points and the number of cases cleared by arrest increased 2.1 percentage points. The actual number of cases cleared by arrest more than doubled (from 31 to 63) and the total number of cases cleared almost doubled (from 108 to 204). (See fig. 1.)

Conclusion

We have opted to continue the use of this alternative approach to case assignment and management. Should the reader consider adopting this method, the author would recommend a careful analysis of your agency's needs and modification of the basic concept to meet those needs. FBI

Footnotes

[1] John E. Eck, "Managing Case Assignments: The Burglary Investigation Decision Model Replication," Police Executive Research Forum, 1979.

[2] John E. Eck, "Solving Crimes: The Investigation of Burglary and Robbery," Police Executive Research Forum.

Job-Specific Training for Police

An Airport Example

"Given the current trend toward specialization and professionalism in law enforcement . . . training in new, specific areas has taken on increasing importance."

By
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In today's law enforcement community, police training has taken on an increasingly important role. Given the complex, sometimes perilous and litigious state of contemporary criminal justice systems, mandated, up-to-date training is no longer a luxury, but a necessity. In answer to the demands placed upon it, police training has met the challenge admirably, and it is perhaps not too optimistic to state that modern training programs have advanced in quantum leaps over the past 2 decades.

However, advances in training methodology and techniques have yet another challenge to face. Police departments are also finding themselves tasked with increasingly esoteric functions; more and more police officers, trained primarily in general police tasks, are assigned to specialized police units. In recent years, units with unique functions have proliferated as police departments have attempted to keep up with constantly changing societal demands. SWAT and hostage negotiation teams, airport and seaport details, aviation units, crime prevention details, etc., are staffed by police officers, most of whom receive (at least on the mandated training level) regular training only in general police subjects.

Job-specific training is usually gained on the job or through the occasional seminar or school made available by other departments or organizations. This situation contains some obvious shortfalls. First, scheduling for specialized training programs is irregular, at best. Second, the seminar or school, while more specifically addressed to the unit's duties, may not be as comprehensive as desired and cannot, by its nature, cover all aspects of a particular unit member's duties. Lastly, unless all unit members attend the same schools, information gained as a result of this training may conflict or even contradict.

The problems implicit in these shortfalls may result in a lack of training, or more to the point, a lack of consistent, organized, job-specific training for the specialized unit. Such a shortfall may, at best, result in a general decline of professionalism and expertise; at worst, it could result in liability attaching to the unit that is unable to demonstrate a well-designed and functional training plan which specifically addresses the duties of its members.

This article suggests methods which will circumvent these problems and increase the level of expertise of the specialized unit member. In evaluating this model, the reader should consider three major theories upon which is based:

1) That specialized units require, apart from general police sub-

jects, specialized training. The more unique the unit, the more specialized the training needs become.

2) That no one knows the training needs of such a unit better than the unit members themselves, and

3) That such a program may (and should) be instituted in-house, based on input by unit members.

The Airport Example

A practical example is the Maryland State Police Airport Division located at Baltimore-Washington International Airport (BWI), MD. In 1977, the Maryland State Police assumed law enforcement at the airport. No one in the original unit had received any training in airport security/enforcement duties prior to the takeover. It was an example, as most specialized units are at their inception, of starting with a "clean slate."

The original group, made up of troopers, corporals, and sergeants, was given a preliminary week-long training course by a cadre of supervisors who had preceded the larger group at the airport. The instruction concentrated on job-specific tasks and was designed to assist the unit in beginning its new duties. Once the initial training period had ended, the Airport Division was initiated as a functional unit. Further training consisted of the normal, State-mandated police schooling received by all Maryland State Police members, regardless of job duties.[1]

It soon became obvious, however, that more was needed in the way of training than meeting minimal State standards. Police work at an airport, as in many specialized units, is a unique type of law enforcement, which requires specialized knowledge in areas seldom encountered by other police officers. Subjects such as search and seizure guidelines at airport pier security points, airline ticket fraud, organized criminal activity in airport theft and fraud cases, and narcotics interdiction efforts, to name but a few, are unique to airport police activities. They are, in fact, sub-sets of more generalized criminal and legal areas, which are never specifically addressed in the larger law enforcement-oriented training given to most police officers.

This problem was initially addressed by sending chosen unit members, primarily from supervisory ranks, to more-specific training courses held by other agencies. Although these programs were of some assistance, and generally raised the level of expertise of the unit, they suffered from three major drawbacks: 1) They addressed only *some* of the areas in which training was necessary; 2) only individual members benefited from the programs; and 3) it was not always easy for the people who had been trained to communicate what they had learned to the enforcement level.

Once these problems became clear, it was apparent that some further, job-specific type of training was necessary to raise the level of expertise of the Airport Unit.

The Training Model

As a necessary prerequisite to the development of a functional training program, a job-specific analysis of the airport trooper's duties was required. Although this was accomplished on an informal, *ad hoc* basis at BWI, it is suggested that to be maximally effective, a more-formal task analysis must be prepared. As stated earlier, no one knows more about what training is needed than the trainees and their supervisors. Along these same lines, the specific, job-related tasks intrinsic to any particular unit are best identified by in-house personnel, and input from the line and supervisory unit levels is necessary to compile a realistic list of tasks. At this point, the unit head should appoint a "training council" comprised of unit members. The composition and rank structure for such a council will, of necessity, be governed by factors unique to the unit. However, it is suggested that such a group be small enough to be manageable, yet large enough to be effective, and should contain a cadre of experienced, trained personnel. The council acts throughout the development of the training program as the central repository of training needs and will be responsible for the program's implementation.

Once a list of tasks is in place, it remains to prioritize training needs. Certain tasks are more important than others and may be characterized as "critical tasks," i.e., of the job-specific tasks listed, which are essential for the officer to do his job properly?

Tasks will fall into four major categories. First, there are the "common" tasks, applicable to all law enforcement personnel. Then there are tasks "critical" to all law enforcement officers, i.e., skills they must possess to do the job properly and in accordance with stated guidelines. Next come the common tasks intrinsic to the *unit*, followed by tasks "critical" to that unit. For purposes of in-house training, the latter category should be given primary emphasis, followed by the job-specific common tasks. Inasmuch as general police training may cover the former tasks, they should not be emphasized for purposes of this model, unless directly related to the unit's mission. As training develops, contact should also be maintained with the agency's training academy for purposes of review and assistance.

Once the relative importance of the tasks has been determined, it is then necessary to decide which of the job-related critical tasks should take priority for training. Again, the collective expertise of the training council should be relied upon in making this determination. As an example, Maryland State Police Airport Division members were given training on searches at pier security points. Although this task might be characterized as merely a subset of searches generally, and therefore, fall under the category of overall police training, these types of searches were of critical importance to the Airport Unit and were emphasized accordingly.

After the training needs have been established and prioritized, the actual training program should be instituted. Again, using BWI as a format, it was discovered during this phase that most of the training aids (as well as training needs) could be obtained from in-house sources. Searches at pier security points, as an example, were best carried out at the pier itself during off-use hours. This training was further enhanced by a video tape made by an airport sergeant who used his own video equipment to make the film. (Expenditures—which were minimal—were paid out of a unit working fund).

Throughout the program, every effort was made to include the in-house expertise of unit supervisors and members in the training itself. Along with this, emphasis was placed on developing a permanent training course. (Examples of such a course might include slide presentations, written lesson plans, video presentations, and appointing instructors to teach areas in which they possess special expertise.) In the BWI example, time for instruction was set aside during off-duty hours.[2] Troopers were assigned training by leave group, which eased scheduling difficulties, and as a side benefit, had a tendency to create a greater sense of group cohesiveness.

In order for such a program to be truly effective, followup is mandatory. In this respect, the training council serves a dual role. In the initial phases, for example, the Airport Division council functioned as a focal point for identifying training needs and subsequently formed these needs into a program. Later, the council met at regularly scheduled intervals. The purpose of these meetings was twofold. First, the council members reviewed suggestions from unit members of areas in which new, or additional, training was requested. Once these areas were identified, they were incorporated into the already-existing program. Second, council representatives kept in touch with unit members and recent court and case developments in order to encourage and develop new training areas. Thus, training needs were easily updated, modified, or added to the already-established program.

Using these methods, the Airport Division was able to generate an up-to-date, job-specific training program for its members and troopers who transferred into the unit.

Conclusion

It should be emphasized that this model, and the example provided, are meant only to serve as guidelines. Such a program, by its very nature, is readily adaptable to any unit, airport or otherwise, which has unique functions beyond those normally made the subject of general police training courses. The program can be made as formal or informal as a particular unit's situation dictates, given the historical constraints under which police agencies must operate. From a cost-analysis perspective, the use of in-house talent and resources renders the program amenable to even the smallest, most cost-conscious group.

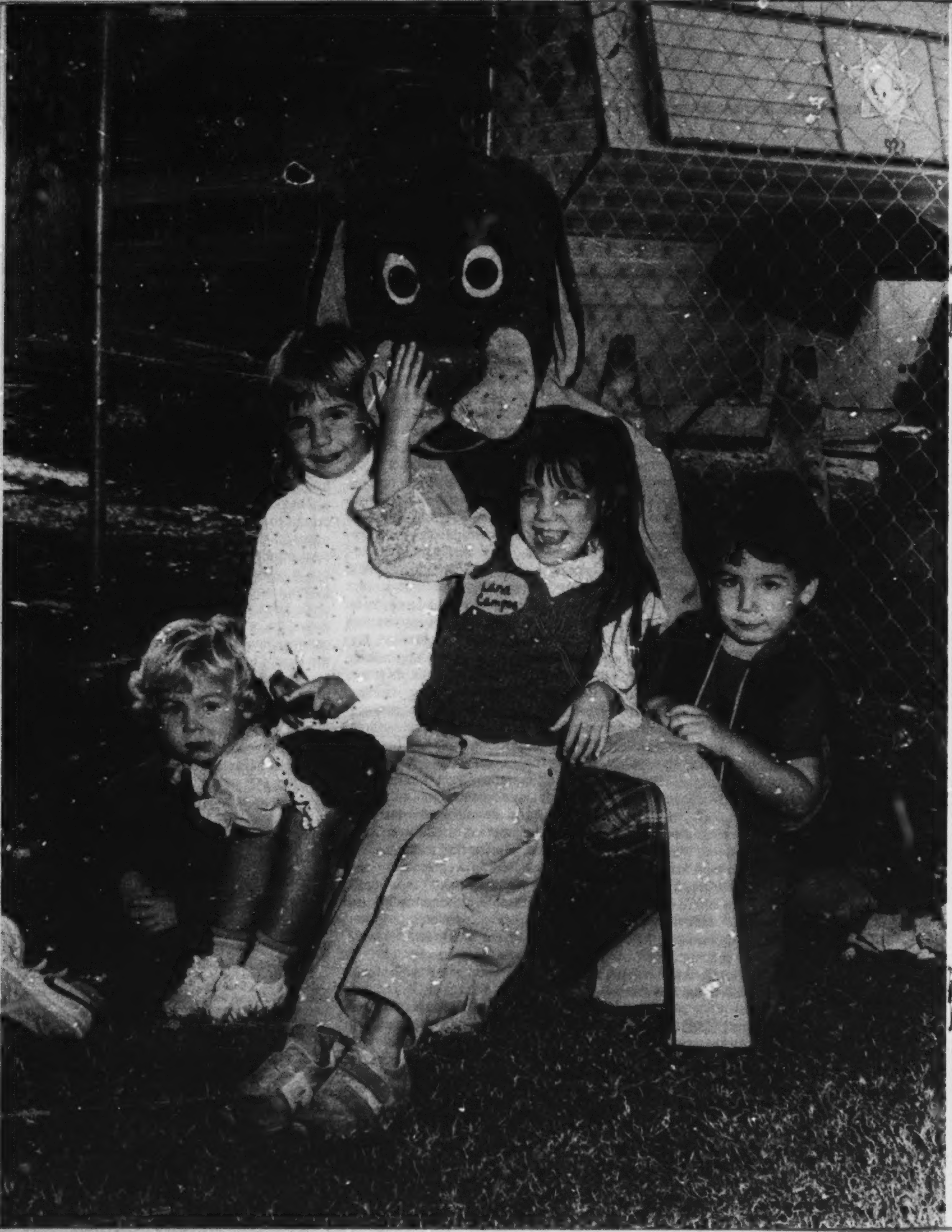
This model is designed for the smaller, job-specific unit with unique functions not routinely covered in agency-wide training programs. It is meant to be easily adaptable to the needs of the particular unit and to be cost-effective. The benefits it incurs are a greater amount of individual training and a concurrent rise in the unit's level of expertise, hopefully followed by a greater sense of unit cohensiveness and morale. Although the example cited here involved the Maryland State Police, Airport Division, there is little reason why other unique units could not adapt such a program to their specific needs. Given the current trend toward specialization and professionalism in law enforcement today, together with a keen public interest in such activities, training in new, specific areas has taken on increasing importance.

FBI

Footnotes

[1] The Maryland Police Training Commission, as an example, promulgates minimum training requirements for entry-level, in-service, and first-line supervisor police ranks. In order to maintain proficiency, a set number of hours of instruction on various police skills is required on a yearly basis.

[2] Although this necessarily entailed the use of overtime, options might include (in an airport scenario) payment via the airlines, S.A.A., F.A.A., or others, who could conceivably benefit from such instruction. Another justification for such expenditures relates to the liability aspects incurred through a lack of specific training, as against the liability protection afforded by such instruction.



The McGruff Mobile

"The McGruff Mobile is an educational project that targets reducing unhealthy conditions and deaths of children and adolescents. . . ."

By
JOHN W. CARPENTER
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—One child in five is sexually abused before the age of 16, and 80 percent of the molesters are "trusted adults," people known to the children, such as relatives, teachers, or neighbors.[1]

—An estimated 73 percent of teenagers experiment with or use drugs or alcohol at least occasionally.[2]

—Last year, an estimated 500,000 Americans were hurt in accidents while riding a bike, mini-bike, skateboard, or tricycle.[3]

Many adults working with children find it difficult to discuss substance abuse or molestation, and some believe they are inadequately informed to address these issues. Materials must be carefully screened for objectivity, sensitivity, and fact.

The Santa Barbara County Sheriff's Department realized the need to communicate more directly with youngsters at the elementary school level regarding child safety, substance abuse, and molestation. Since law enforcement agencies often deal with the final results of these major areas of concern, it appeared highly appropriate that the sheriff's department would spearhead a community effort to sponsor a primary prevention program. This led to the development of the McGruff Mobile.

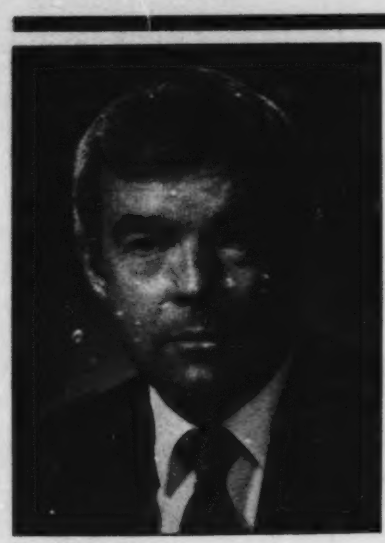
The McGruff Mobile is an educational project that targets reducing unhealthy conditions and deaths of children and adolescents, giving them a healthier foundation for adulthood. Specific priority areas addressed by the McGruff Mobile are reduction of accidents and injuries, smoking and health issues, misuse of drugs and alcohol, control of stress and violent behavior, as well as a reduction of injury through being a "victim."

METHOD

The McGruff Mobile is a converted trailer that houses a VCR monitor, puppets, a puppet stage, tape recorders, videos, posters, coloring books, junior deputy badges, a sound system, and followup curriculum materials. It is towed by "Barney, the Talking Patrol Car" which, as if by "magic," gives advice to inquiring young minds. It is totally self-contained, including a generator for electricity, and a fire alarm for lessons on the dangers of fire.

In 1984, the Santa Barbara County Deputy Sheriff's Association donated the travel trailer and the first $1,000 needed to begin the conversion to a classroom. The trailer was given to the deputy sheriff's association by the estate of a murder victim whose family had the hope that somehow the trailer could be used for crime prevention or education purposes. The Santa Barbara Foundation awarded a $7,000 grant to complete the materials and properties acquisition and physical reconstruction.

Crime prevention officers consulted educational, substance abuse prevention, and crime prevention groups, as well as other law enforcement agencies, to detail the plans for the curriculum and formulate exactly how the program would be used by the schools in order to reach a maximum number of children. During this preparation time, the Crime Prevention Unit worked with over 100 community service groups and individuals and received donations toward the purchase of miniature McGruff puppets and age-appropriate safety lesson tapes for each school in the county. (In several cases, donations were received to supply each classroom.) Teachers use these puppets for ongoing lessons and followup to the McGruff Mobile visit. On June 6, 1985, the completed McGruff Mobile classroom was unveiled during a ceremony at an elementary school in Goleta, CA. Since then, more than 6,000 children have gone through the program.



Sheriff Carpenter

With all the planning and preparation in line and a growing excitement over the expected visits from the McGruff Mobile, it was apparent that an active partner would be needed to assist the sheriff's department in facilitating the visit throughout the county schools and to work with school personnel. Scheduling and previsit preparation at a receiving school was seen as an ongoing commitment. The Office of the County Superintendent of Schools became this active partner, when the McGruff Mobile was assigned to the Center for Community Education, which also coordinates school health education services. In addition to scheduling meetings with school principals and nurses, drafting instruction letters, arranging previsit instructions, and compiling brochures and suggestion and evaluation forms, the center continues to serve as the partner agency to schedule the mobile presentations in area schools, as well as consult on curriculum ideas, community resources, and changing needs.

There is no charge to any school or group wishing to use this educational service. Deputies and the McGruff Mobile go to a school on the appointed day and will stay from 1 to 5 days, depending on the number of children participating in the program.

On the first day of a scheduled visit to a school, the life-size McGruff goes to the classroom, introduces the lesson activities that will take place, and then leads the children to the mobile classroom, where they are greeted by another deputy. Using puppets (behind the stage in the trailer wall), tape lessons, and wall charts, he discusses one of three previously designated subjects—general safety and crime prevention, molestation prevention, or substance abuse/smoking prevention. Teachers attend the 30–35 minute sessions, and parents and citizens are always welcome to take part.

The children are encouraged to interact with the officer and McGruff with the intention of minimizing the "authority figure" image. Officers do not wear their weapons when working with the youngest children, as this has proven to be a distraction from the lessons. Emphasis is placed on the fact that law enforcement officers are "friends" and trusted adults a child can go to for help in time of need.

In addition to the films, songs, and puppet shows that are used to reinforce the day's lesson, video tapes directed toward specific age groups and subject matter are shown to the children. During these showings, the deputy will ask the children to relate their own ideas as to what is happening and ask how they would react if such a thing happened to them.

The educational videos are carefully screened by individuals from the Crime Prevention Unit, county drug program, and parent groups and are tactful in subject presentation, culturally sensitive. and factually correct in the information given. The deputy assigned to the McGruff Mobile is bilingual and converses with the children in English and Spanish.

After the videos are played, questions are answered, and tips for followup are given. The children are encouraged to talk about which adults they can go to with a problem, for help, or advice. The deputy uses a reassuring tone, a supportive approach that is spiced with pertinent information on "what to do." The deputy does not use scare tactics, horror stories, "threats" with incrimination or be-

Mc GRUFF
MOBILE

Deputy II Sam Gross, as McGruff, stands with the McGruff Mobile and Barney the Talking Patrol Car.

ing a "bad person." Teachers are given brochures and curriculum materials on smoking, drug abuse, and molestation, coloring books on drug abuse, and the McGruff coloring book to use later in the classroom for followup reinforcement. At the conclusion of the series of sessions, the children are presented junior deputy badges which they wear with pride.

Although the sheriff's department is a tax-supported agency, the Crime Prevention Unit relies heavily on alternative funding and receives no public funds other than salaries and officer equipment. Local service groups and the schools, while in agreement that the safety program is of great benefit,

> ***"The program is receiving highest praise from administrators, teachers, parents, and community health agencies as a valuable addition to the efforts to increase health and safety awareness in the youth of Santa Barbara County."***

are not capable of funding such a large scale program as the McGruff Mobile independently. Therefore, the sheriff's department entered into a collaborative effort with the community to support the McGruff Mobile classroom concept. To date, support has been received from local law enforcement, educational groups, other local government agencies, and private concerns.

EVALUATION

Evaluation of the McGruff Mobile program, presentation, and curriculum is based upon teacher/school principal input as to effectiveness, carry over, and followup lessons, allowing for ongoing change in the presentations. Evaluation forms are given to participating adults at each session, and the Office of County Superintendent of Schools compiles the results and suggestions for the sheriff's department. Staff members responsible for the McGruff Mobile in both agencies meet to discuss the findings, incorporate changes, or explore methods to expand curriculum.

An informal means of evaluation is also done according to the demand for the McGruff Mobile in the schools. The program was fully scheduled for the 1985–1986 school year, and there is a waiting list due to high demand for the presentations.

Formal, statistical evaluation cannot be completed at this time, since we are involved in a primary prevention program that will begin to show its effect in 2, 3, or more years when the youths exposed to the McGruff lessons reach adolescence, OR there can be a formal collection of statistics by the law enforcement agencies and child protective agencies as to how many children were involved in accidents or abuse reports. (It should be noted that while it may be possible to chart reductions in accidents, molestations, etc., there is no way to gather data on accidents that didn't happen or molestation situations that were averted.)

However, preliminary evaluation results show that the McGruff Mobile program is highly successful in reaching/teaching children, who respond with enthusiasm and rapid learning of the lessons. The program is receiving highest praise from administrators, teachers, parents, and community health agencies as a valuable addition to the efforts to increase health and safety awareness in the youth of Santa Barbara County. The approach of using a network of support agencies or partners insures that the program will grow and constantly change with the educational needs of the communities served.

It is the desire of the Santa Barbara County Sheriff's Department and the Office of the Superintendent of Schools to use the mobile unit to its maximum potential, reaching children through schools, community centers, day care centers, fairs, and public places. The message of safety, crime prevention, and a heightened awareness of a child's ability and right to make decisions along healthy and moral lines will eventually be taken to every elementary school in Santa Barbara County. Those involved are committed to the continuation of the McGruff Mobile program. Plans are already being made through the schools, the Crime Prevention Unit, and allied community support agencies to add to the curriculum and to further develop the program for followup visits. As the children grow in knowledge about their own health and well-being and the role they can play in that well-being, more information and more sophisticated materials will be introduced.

The McGruff Mobile is the first of its kind in the State of California and is the result of the innovative and hard working efforts of the Santa Barbara County Sheriff's Department in identifying a need and then gathering support from the entire county. A sheriff's deputy, who conceived the McGruff Mobile ideas, has outlined in detail the procedures of securing funds, gaining permission to use materials, reconstruction of the trailer, and physical installation of the equipment. The process, in this outlined form, can be duplicated by other communities. The sheriff's department not only offers to share the plans but encourages others to call for information in order to duplicate our success with this effective educational program.

FBI

Footnotes

[1] "No More Secrets," ODN Educational Film Corp, New York, NY, 1982.

[2] Survey taken of senior and junior high school students, The Santa Barbara County Office of Substance Abuse, 1982.

[3] National Electronic Injury Surveillance System, Consumer Product Safety Commission, Washington, DC.

Organized Crime and Medical Fraud

"The most common targets of today's organized crime entrepreneur are the health clinic and health laboratories."

By
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Is organized crime involved in medical fraud? This is a valid question; however, a more relevant question would ask how extensive is organized crime's involvement in medical fraud. If there is a way for an illegal dollar to be made, organized crime will find it, refine it, launder it, and lend it back at exorbitant interest rates. As accurately as can be determined, medical fraud is the "new wave" for organized crime today.

Although the public attributes ethnic boundaries to organized crime, it is by definition any group having some organizational structure whose primary objective is to obtain money through illegal activities. The vehicles for accomplishing this task include the use of violence or threat of violence, corruption of public officials, graft, or extortion.

Insurance Fraud

Based on the intelligence at hand, organized crime's involvement in medical fraud ranges from one or two "ghost employees" making false claims, to attempts to corrupt hospital board directors and doctors, to actual control and operation of clinics, pharmacies, and other medical facilities. The most common targets of today's organized crime entrepreneur are the health clinic and health laboratories.

The problem is twofold. One is to extract as much money as possible from the underwriter insurance company over a prolonged period of time; the second, to undercut legitimate underwriters or third-party administrators so that businesses owned and operated as third-party administrators by organized crime can have a larger share of the market. The following details a carefully orchestrated scenario for controlling a clinic or laboratory:

> A clinic or lab is formed by either purchasing or infiltrating an existing clinic or incorporating an entirely new business staffed by employees associated with organized crime. In establishing a clinic, organized crime is able "to clean" some of its illegally obtained funds acquired most notably through gambling, extortion, or narcotics, which are then channeled from a "friendly" bank through a dummy corporation that is now the new client.

Existing clinics are also vulnerable, inasmuch as doctors seeking to increase their profits and volume will all too often welcome accreditation from anyone who has the backing of unions or groups. This way, the clinic would have sole responsibility for that particular group or union. Unfortunately, that "anyone" is all too frequently organized crime.

Another underlying reason for infiltrating existing clinics or creating new clinics is greed and human vulnerability. Organized crime will choose their mark, identify the individual's weakness, and exploit it to meet their needs. For instance, a reputable businessman in the medical field or a doctor may have a compulsive weakness toward gambling. This individual will then be set up in a "rigged" game in which large amounts of money would be lent to him by organized crime figures or associates. The exorbitant interest rates will keep this individual on the hook for an indefinite period of time. One way offered to him to alleviate the debt would be to do a favor for the lenders, such as allowing them to infiltrate or use that particular businessman's or doctor's enterprise.

The next step is credibility. Credibility could be established through a reputable businessman or doctor who has been compromised or by soliciting doctors who are looking to cut costs and extend their profits. Unions friendly to organized crime will instruct their members to use only certain ac-

SAC Walton

credited clinics or labs which have been established, thus giving them credibility.

Initially, costs and volume will remain competitive and somewhat lower. Slowly, more claims are added and handled per clinic, and doctors' referrals will begin to increase. It may come to the point where anyone entering a particular lab or clinic will automatically be given a blood test, urinalysis, and blood pressure check which, of course, is charged to the insurance company or underwriter. This work is done routinely, regardless if the patient needs it or not.

Coupled with this are false claims which clinic administrators attempt to submit with legitimate claims over a period of time. Claims submitted increase to the point that when carefully scrutinized, the volume of patients treated would simply not be feasible during a 24-hour period. Unfortunately, this procedure is not unique to medical clinics. Many dental and optical clinics operate in similar fashion. All costs incurred are transferred back to the initial carrier and the insurance company and ultimately to those who pay medical insurance premiums.

The false claims are covered up through the "ghost employee" scheme. In this way, companies that are solely owned by organized crime list employees who either do not exist or do not work for that particular company. At the same time, all of their medical claims are written through that particular company, thus making that business qualify for group rates through the insurance company or underwriter whose companies pay for most of the investment.

In order to reduce operating expenses, organized crime has entered the insurance business as third-party administrators who are either owned or operated by organized crime. The third-party administrator and its accompanying health and welfare plan is established through a large underwriter insurance company. Normal business is generated by using an experienced insurance broker. With organized crime-controlled labor unions, for example, the idea is to enroll as many participants into the health and welfare plan and operate on volume. There is nothing illegal about this; however, in due time, cost per coverage per individual begins to vary from locale to locale. The third-party administrator delays payment of claims by 3 to 6 months, thus allowing the money provided by the underwriting company or insurance corporation to be put to personal use. Through organized crime ties, a substantial membership in a particular health and welfare plan is enrolled, thus giving credibility to health and welfare plans and to organized crime's hand-picked, third-party administrator.

In the course of securing other groups into this health and welfare plan, information concerning specific details and bids are provided to the illegal third-party administrator, who will have the edge on negotiating the contract since he has prior knowledge of the complete package offered by a legitimate company.

The organized crime third-party administrator and the organized crime-controlled health and welfare plan are every bit as sophisticated as any other legal business in this field. They are completely computerized, competitive in pricing and packaging, and can also market their product in a very professional manner. Their operations are nationwide and their reputation has

"... organized crime has entered the insurance business as third-party administrators...."

been cultivated over a period of time so as not to appear as a "fly-by-night operation" that comes into the community with grandiose plans for saving groups substantial amounts of money. The main difference is that these controlled third-party administrators have inside information into the groups they are pitching or already have the bids secured, making competition in the field extremely limited.

Once the majority of the competition is eliminated, the third-party administrator is free to charge prices that would most complement the enterprise in making money. Members are now sent to their own certified clinics and laboratories which were referred to previously. What is now in effect is a "closed shop." A group is channeled through designated clinics or labs, paid by a third-party administrator that is underwritten by an insurance company.

In each instance, a percentage is taken from every claim filed during each step of the process. It may be as low as $1 or $2 per member. However, when multiplied on a scale of approximately 10,000 per group, per visit, per test, the amounts are considerable, the profit substantial, the detection difficult.

To complete the cycle, organized crime has also become involved in supplying clinics with such items as syringes, IVs, and pharmaceuticals. The rationalization behind this type of venture is that if the clinic can be supplied by their own people, overhead is considerably diminished. For example, a clinic or lab dispenses certain pharmaceuticals and prescription drugs. A person knowledgeable in the pharmaceutical field can go to a wholesaler to purchase many of the drugs that will be dispensed by the clinic. This person may contract for generic drugs on the pretense that the drugs will be shipped to a third-world country, thus purchasing a bulk amount of drugs at a substantially reduced rate. The shipment is then diverted through another hospital supply house, and in turn, sold to the clinic or laboratory controlled by organized crime. The clinic or lab then dispenses the drugs to the members, and a claim is written to the underwriter in which the drug is listed as a brand name pharmaceutical and charged full price. Because the wholesaler, clinic, and the third-party administrator are all controlled by organized crime, all expenses are passed on to the insurance company or underwriter.

Again, at each particular stop along this chain, a percentage is taken or "skimmed" in order to provide further compensation. In some instances, the supply house through which the pharmaceuticals are channeled may be controlled by organized crime; however, due to the volume of business, most records are not scrutinized. In essence, organized crime has its own underwriters, certifying its own clinics and labs, with its own chain of doctors using supplies that have been diverted. Eventually, the cost is passed on to the insurance company resulting in rate increases, unfavorable competition, and increased medical care costs.

This sudden explosion in medical fraud can be attributed to the ever-increasing number of health maintenance organizations (HMO) and preferred provider organizations (PPO) within the last 5 years, where unions negotiate contracts with the large manufacturing firms. With the saturation of new third-party administrators under a HMO or PPO type of plan, and a voluminous listing of members, the traceability of fraud becomes practically impossible. When the team approach to medicine takes place, the individual care and scrutiny is no longer prevalent; therefore, many claims can "slip through the cracks" and be passed along to the insurance company.

Prescription Fraud

The prescription mill industry as seen in Detroit in the 1980's was clearly one of the major crime problems in this metropolitan area of some 2.5 million people. At one time, 40 percent of all the Nation's abused controlled substances were dispensed in Detroit by pharmacies and physicians. This was clearly a crime problem peculiar to Detroit, but also prevalent in many other areas of the country.

Since 1982, the Detroit Division of the FBI has focused its attention in the medical fraud area on clinics and pharmacies dispensing drugs illegally. During an investigation of nursing homes, laboratories, and others engaged in kickback activity, FBI Agents noted long lines of patients outside medical clinics. Some clinics saw as many as 200 to 300 patients a day—the majority of whom were requesting specific controlled substance prescriptions.

Medication such as talwin, dilaudid, demerol, percodan, desoxyn, and preludin were among those substances which were prescribed by doctors, podiatrists, and dentists. Physicians and pharmacies quickly found that they could make large amounts of money by issuing prescriptions for these drugs. The drugs were being requested by health care recipients not for any legitimate medical purpose, but for resale and illicit trafficking. Dilaudid, a synthetic heroin substitute manufactured and sold for 17 cents per tablet, was being sold on the streets of Detroit for $25 per tablet and in other areas of the country for as much as $90 a tab-

> ***"The goal [is] always the same; obtain the insurance card, which thereafter [becomes] a license to defraud."***

let. Because the insurance carriers were paying for it, dilaudid became a much easier way to traffic in narcotics than trafficking in heroin or cocaine. The reason for this was simple; someone else was paying for it, namely, the insurance industry.

Dilaudid was not the only drug that was being supplied to narcotics addicts unwittingly by the insurance companies. Desoxyn and preludin, both amphetamine or "speed" substitutes, were being sold in substantial quantities on the streets of Detroit. Preludin sold for $10 a tablet, while desoxyn cost about $6 a tablet. Prescriptions were not issued on an individual basis, but were given to "patients" (pill dealers) who would often purchase as many as 20 to 30 prescriptions at the same time, all for the same drug and for fictitious "patients."

The scheme was simple. The physicians and pharmacies held out the carrot—the controlled substance—so that the recipients would provide them with their insurance cards. After this happened, it was open season on the health insurance and government-funded insurance companies.

Over and above the controlled substances, other "carrots" were used, such as disability certifications for fraudulent billing. The disability certifications included workmen's compensation payments and excused absences in Detroit's automotive manufacturing plants.

In some cases, the "carrot" was cash. One Detroit-area chiropractic clinic obtained insurance cards from recipients after offering them money to come to their clinic. Recipients received $50 for submitting themselves to unneeded x-rays and other medical treatments. Another $50 was given to patients for referrals of other patients, who were given $1,000 worth of unnecessary x-rays on each clinic visit.

The number of "carrots" is restricted only by the imagination of corrupt medical card providers. The goal was always the same; obtain the insurance card, which thereafter became a license to defraud.

Investigation

Agencies tasked with investigating medical fraud and uncovering organized crime enterprises practicing that fraud must be ready to become involved in cases which may well take 2 to 3 years to resolve. The cases are not like the simple property crimes or some of the highly visible and publicized personal crimes. The commitment of manpower must be constant, and the investigators must patiently search for witnesses and physical evidence.

There are steps that individual insurance carriers can take to diminish the amount of medical fraud or at least make it less profitable for organized crime. The first is to work closely with, and bring to the attention of, the FBI matters which do not seem feasible regarding amounts paid per capita business. Second, the insurance carriers should be acquainted with the HMO, PPO, and clinics operating in their areas.

Insurance carriers should also be cognizant of third-party administrators that are trying to undercut basic coverage when it is apparent such coverage can not realistically be offered. Comparative studies over a 3-month period would be appropriate in order to determine the amount paid to clinics or doctors for a particular benefit. Also, the volume that a particular health organization is reporting may also provide a clue to a potential fraud scheme. Finally, as a preventive measure, know the competition as to the type of people behind the organization and who they represent. Does a particular union have a reputation of being affiliated with organized crime? If so, where are the loyalties of its leaders?

In the past 5 years, 400 defendants in FBI cases have been prosecuted in the Detroit area relating to medical fraud. The sentences these "professional" people have received have gradually increased as the public became increasingly aware of the problem. Recently, one clinic owner was sentenced to serve 25 years, and another podiatrist was sentenced to 15 years' incarceration.

Jail sentences, however, are not enough. Recently, the FBI has initiated a program designed to identify, and through forfeiture proceedings, seize clinics, pharmacies, and other health care entities which have engaged in fraudulent activity. In one investigation, the FBI was instrumental in the forfeiture of five pharmacies which are now the property of the U.S. Government.

These efforts have had a substantial impact on a crime problem that, while not indigenous to Detroit, was unfortunately representative of that community. We have had the fortune of recognizing the problem, and through the commitment of resources, aggressive prosecution, and substantial sentences and forfeiture, were able to take tremendous strides in combatting this crime.

FBI

Urinalysis Drug Testing Programs for Law Enforcement

(Part I)

"Drug testing through urinalysis furthers the goal of preventing the loss of public trust and confidence due to drug abuse by law enforcement officers."

By
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Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.

The menace that drug abuse poses for today's society is beyond question. Its adverse effects are many and substantial, and the death of a University of Maryland athlete on June 19, 1986, from cocaine ingestion is but one tragic illustration of the consequences facing drug abusers. But society is also the victim of drug abuse. Drug abuse is causing economic damage of staggering proportions. Some estimates place the economic damage caused by chemical dependency in terms of lost productivity and medical expenditures alone to be in excess of $100 billion annually.[1] Since 1975, about 50 railroad accidents or mishaps have been attributed to drug or alcohol impairment, resulting in the death of 37 people, the injury of at least 80 more people, and property damage of more than $34 million.[2] Crime statistics seem to bear a direct relationship to drug abuse as well. The District of Columbia government announced that a preliminary study in that city showed that over 61 percent of all arrested persons between the ages of 18 to 25 years tested positive for the ingestion of one or more drugs.[3]

The effect that this drug abuse problem poses for law enforcement is obvious, yet at the same time hidden. On the one hand, the problems of investigating, detecting, and prosecuting drug traffickers are obvious. On the other hand, the adverse consequences of drug abuse in the workplace are much more of a hidden menace.

Because of the special place held by the law enforcement community in our society, the effects of drug abuse by any officer or official are magnified. In addition to the obvious physical injuries which might stem from drug abuse, illegal drug use by law enforcement officers would create a disrespect for law enforcement and diminish public trust in our system of government. Just as everyone would object to an airline pilot flying under the influence of drugs, so too will they refuse to tolerate drug abuse by police officers. The challenge for law enforcement is to prevent the disintegration of public trust and respect for law enforcement and to develop a viable mechanism to identify and deal with those officers who abuse drugs.

One mechanism for dealing with this potential problem is the establishment of a comprehensive mandatory drug testing program to identify drug abusers. The purpose of this article is to consider the legal issues in developing and implementing such a mandatory urinalysis drug testing program for law enforcement officers.[4] Part I of this article will discuss the basis for

Special Agent Higginbotham

such a program and the necessary balancing of the competing interests of the individual officer and the officer's department under a traditional fourth amendment analysis. Parts II and III will address the legal basis of drug testing in a law enforcement context, legal issues that arise during implementation of the program, and the use of positive test results in personnel actions.

THE BASIS FOR A DRUG TESTING PROGRAM

Initially, each law enforcement agency or department must determine if it has the need for a comprehensive, mandatory drug testing program. Though the focus of this article is on legal issues related to the development and implementation of such a program, it is not meant to suggest that all agencies must adopt a comprehensive drug testing program. Any department which is considering a mandatory drug testing program should consider two interrelated questions, the answers to which will determine the type of program best suited to the needs of that agency and form the foundation for the defense of the program if it is subsequently challenged in court.

The two questions that should be asked at the outset are: 1) Why should this department adopt a urinalysis drug testing program? and 2) What does this department hope to accomplish with such a program? By analyzing those questions, a law enforcement agency may find that it can simply rely on traditional methods of securing evidence, such as search warrants,[5] court orders,[6] or consent,[7] to deal with the problem of drug abuse by law enforcement officers. However, the analysis might also disclose that a comprehensive urinalysis drug testing program is required to prevent the loss of public trust and to insure the ability of the agency to fulfill its investigatory and enforcement responsibilities.

CONSTITUTIONAL ISSUES IMPLICATED BY A DRUG TESTING PROGRAM

If an agency concludes that a comprehensive urinalysis drug testing program may be required, its next consideration is the legality of the program. Since it will necessarily involve the law enforcement agency or department in inquiries concerning the privacy of its employees' activities and bodily functions and require personnel decisions to be made, certain constitutional considerations immediately appear. They include the law of search and seizure under the 4th amendment, as well as due process notions under the 5th and 14th amendments. For example, is mandatory participation in a urinalysis drug testing program a reasonable search and seizure? Might the program be conducted or the results be used in such an unfair manner as to offend the concept of due process? The answers to those questions will determine whether and how a law enforcement agency or department could constitutionally mandate participation in a urinalysis drug testing program over an individual officer's objection. They will be addressed as they might arise—first in the development of a drug testing program, and second, in implementing the program.

CONSTITUTIONAL ISSUES IN DEVELOPING A DRUG TESTING PROGRAM

The first constitutional issue certain to arise when a mandatory drug

"... a urinalysis drug testing program is not an attempt by law enforcement executives to test officers for drug abuse out of distrust, but rather to provide a better working climate within the law enforcement department and the community it serves."

testing program is being developed involves the fourth amendment's proscription against unreasonable searches and seizures.[8] Is mandatory drug testing even a search within the meaning of the fourth amendment?

The Supreme Court has said that "[a] 'search' occurs when an expectation of privacy that society is prepared to consider reasonable is infringed"[9] by governmental action. Does a person, therefore, have a reasonable expectation of privacy in urine sufficient to prohibit the government's warrantless inspection of it for the presence of an illegal drug? That question could be debated at length, but without practical effect, since there is another aspect of urinalysis which almost certainly implicates fourth amendment concerns.[10]

That aspect is the act of urination which is considered by American society to be a private bodily function. The expectation of privacy which one possesses in the act of urination is almost certain to be recognized by the courts as reasonable. Since the fourth amendment "protects people, not places"[11] and is concerned with "those intimate activities that the Amendment is intended to shelter from government interference or surveillance,"[12] a mandatory urinalysis drug testing program which must concern itself with both compelled urination and inspection of a urine sample will implicate the fourth amendment.[13]

Concluding that a mandatory urinalysis drug testing program by a law enforcement agency is a fourth amendment search does not mean that it cannot legally be implemented. The fourth amendment proscribes only unreasonable searches. The challenge to law enforcement, then, is to adopt a urinalysis drug testing program that can pass the reasonableness test.

Fourth Amendment Reasonableness—A Balancing of Interests

What constitutes a reasonable or unreasonable search is not always easy to determine.

> "The test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application. In each case it requires a balancing of the need for the particular search against the invasion of personal rights that the search entails. Courts must consider the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place in which it is conducted."[14]

This balancing test of reasonableness under the Fourth Amendment requires a twofold analysis. "[F]irst, one must consider 'whether the ... action was justified at its inception,' .... [S]econd, one must determine whether the search as actually conducted 'was reasonably related in scope to the circumstances which justified the interference in the first place.'"[15] [citations omitted] In brief, every search must be reasonable at its inception and in its execution. Whether any search, including a urinalysis drug testing program, is reasonable "depends on the context within which a search takes place,"[16] and "the greater the intrusion, the greater must be the reason for conducting a search."[17]

In terms of a urinalysis drug testing program, the balancing test for fourth amendment reasonableness at the inception of the search requires the weighing of three factors: 1) The interests of the law enforcement officer who will be required to participate in the urinalysis program; 2) the interests of the law enforcement agency seeking to implement the program; and 3) the situations or circumstances under which the actual testing procedures will be implemented. Only if the interests of the law enforcement agency, in the context of the situation in which testing is proposed, outweigh the interests of the individual officers affected will the program be able to pass constitutional muster.

Individual Privacy Interests

The first factor in the balancing test is the interest of the officers and officials who will be tested for drug abuse through urinalysis. That interest can be characterized simply as the fundamental right of "privacy and security of individuals against arbitrary invasions by government officials."[18] Though law enforcement officers must expect the loss of some rights and freedoms simply by reason of their chosen profession, it is clear that persons who choose careers in law enforcement retain the basic constitutional rights guaranteed to all citizens. "[P]olicemen ... are not related to a watered-down version of constitutional rights."[19]

The right of privacy is the core value of the fourth amendment, encompassing both bodily integrity and private bodily functions. As such, it is directly implicated by a mandatory urinalysis program. In the words of one court:

> "Urine, unlike blood, is routinely discharged from the body, so no governmental intrusion into the body is required to seize urine. However, urine is discharged and disposed of under circumstances where the person has a reasonable and legitimate expectation of privacy. One does not reasonably expect to discharge urine under circumstances making it available to others to collect and analyze in order to discover the personal physiological secrets it

"... the threat to public safety posed by government employees who are drug abusers is a legitimate factor in determining the fourth amendment reasonableness of a mandatory urinalysis drug testing program."

holds. . . . One clearly has a reasonable and legitimate expectation of privacy in such personal information contained in his body fluids."[20]

An officer's privacy interest does not disappear even though the purpose of the search is to detect drug abuse for employment reasons and not to secure evidence for use in a criminal prosecution. "It is surely anomalous to say that the individual and his property are fully protected by the Fourth Amendment only when the individual is suspected of criminal behavior."[21] "All of us are protected by the Fourth Amendment all of the time, not just when the state suspects us of criminal conduct."[22]

Governmental Interests

The second factor to weigh in judging whether a urinalysis drug testing program can meet the fourth amendment test of reasonableness is the governmental need to adopt such a program. Though this article discusses these needs in terms of governmental interests, a close examination will reveal that the interests are, for the most part, of equal importance and value to an individual law enforcement officer. The reasons upon which a law enforcement agency would rely to implement a drug abuse testing program will further valid societal, governmental, and organizational objectives. At the same time, they also advance health and welfare interests important to individual officers as well. Recognizing the dual benefits in these "governmental" interests demonstrates that a urinalysis drug testing program is not an attempt by law enforcement executives to test officers for drug abuse out of distrust, but rather to provide a better working climate within the law enforcement department and the community it serves.

The interests of the "government" that must be weighed against the individual officer's right to privacy may be summarized as follows: 1) Public safety, 2) public trust and integrity, 3) corruption, 4) presentation of credible testimony, 5) morale and safety in the workplace, 6) loss of productivity, and 7) civil liability. Each will be discussed in turn.

Public Safety

The impairing characteristics of drug abuse are well known. The use of illegal drugs, such as marijuana, are known to adversely affect a person's judgment and response capabilities almost immediately and for extended periods of time thereafter.[23] Yet judgment and response are perhaps the two most important attributes which a law enforcement officer, who seeks to safely and effectively discharge his/her assigned duties, can possess. The need for unimpaired exercise of these two attributes is further heightened by the officer's possession and use of his/her two principal items of equipment—a weapon and the police vehicle.

The possession and use of a deadly weapon is an enormous responsibility entrusted to nearly every law enforcement officer in America. One can easily foresee the tragic consequences of diminished judgment or skill in discharging a weapon as a result of drug abuse. The same is true of accidents caused by an officer driving a vehicle in a hot pursuit or emergency response situation while under the influence of drugs. It is clear that drug abuse by law enforcement officers constitutes a direct threat to the physical safety of the community.

The courts have recognized that the threat to public safety posed by government employees who are drug abusers is a legitimate factor in determining the fourth amendment reasonableness of a mandatory urinalysis drug testing program. In *Turner* v. *Fraternal Order of Police*,[24] the court described the peril:

> "Without a doubt, drug abuse can have an adverse impact upon a police officer's ability to execute his duties. Given the nature of the work and the fact that not only his life, but the lives of the public rest upon his alertness, the necessity of rational action and a clear head unbefuddled by narcotics becomes self-evident. Thus, the use of controlled substances by police officers creates a situation fraught with serious consequences to the public."[25]

Moreover, this rule applies not just to on-duty use or use immediately prior to on-duty status which results in the impairment of an officer, but also to drug abuse by law enforcement officers in an off-duty status. Most departments require law enforcement officers to be subject to, and available for, immediate call to duty at any time. In addition, many require officers, even while off duty, to intervene or respond to criminal activity they observe taking place. As such, there is a potential threat posed to public safety by an officer's drug abuse, even when the officer may technically be off duty. This risk was recognized in *City of Palm Bay* v. *Bauman*:[26]

> "The City has the right to adopt a policy which prohibits police officers and fire fighters from using controlled substances *at any time* while they are so employed, whether such use is on or off the job. The nature of a police officer's or fire fighter's duties involves so much potential danger to both the employee and the general public as to give the City legitimate concern that these em-

> ployees not be users of controlled substances. Their work requires and the safety of the public demands complete mental and physical functioning of these officers."[27]

Accordingly, because of the threat to public safety posed by a law enforcement officer who abuses drugs, on or off duty, a law enforcement agency or department has a legitimate interest in determining, through a urinalysis drug testing program, those officers who are illegally using drugs.

Public Trust

The second "governmental" interest to be weighed against an officer's right of privacy is that of public trust. All experienced law enforcement professionals quickly realize that the job of serving and protecting the community is made easier when the community trusts and supports its police agency. Winning the support and trust of the community is an ongoing endeavor and is undermined if police officers themselves are breaking the law.

Drug abuse by a police officer, in most jurisdictions, constitutes three separate offenses—purchase, possession, and use. Officers sworn to enforce the law cannot be above it. "[P]olice officers who are sworn to enforce the laws lose . . . public confidence if they violate the very laws they are sworn to enforce. [A department] therefore has a right to insist that its law enforcers not be lawbreakers."[28] Drug testing through urinalysis furthers the goal of preventing the loss of public trust and confidence caused by drug abuse by law enforcement officers.

Potential for Corruption

The third factor to be weighed against the individual officer's right to privacy is the potential for corruption, either of, or by, the officer. The very nature of today's police work, i.e., the daily struggle against drug trafficking and use, often brings officers into direct contact with illegal drugs and people associated with them. That exposure provides an officer who is a drug abuser with easier access to drugs through the abuse of his/her powers of office. The temptation to misappropriate the fruits of a drug arrest or search may be irresistible for the drug abusing officer. In addition, an officer who is a drug abuser must acquire his/her drugs from someone. Often, if not always, this act of obtaining an illegal drug requires the association with criminals. If the criminal learns of his buyer's status as a law enforcement officer, that knowledge can be exploited to extort the officer for money, information, or protection.

The potential for corruption and its far-reaching consequences was the basis for a Federal district court's decision to uphold the FBI's determination to require an Agent to submit to urinalysis. In *Mack* v. *United States,*[29] the court stated:

> ". . . the FBI has a compelling interest in assuring that its agents are not involved in drugs. While all private employers may have a generalized desire to know of their employee's drug use which could decrease efficiency, the FBI has far more urgent and compelling needs for such information. FBI agents are privy to highly classified information. Any involvement of an FBI agent with drugs, no matter how small, exposes him to risks of extortion that could jeopardize national security. Also, since the FBI is charged with responsibility for enforcement of the federal drug laws, illegal drug use by agents risks to corrupt and compromise the agency's discharge of those duties."[30]

Although *Mack* spoke, in part, in terms of national security, an area not within the purview of most law enforcement agencies, the message is still clear. The government, in serving and protecting the public, has a legitimate interest in detecting and deterring drug abuse among its personnel to prevent the corruption of its law enforcement employees to the detriment of both the organization and society.[31]

Presentation of Credible Testimony

The next "government" interest in the fourth amendment balancing test of reasonableness lies in the obligation of law enforcement to serve and protect the community it serves. That obligation includes the presentation of competent, professional, and credible testimony by law enforcement officers in the courtroom. An officer who illegally abuses drugs would be subject to impeachment through proof or an admission that he/she is, in fact, a law violator. "[P]olice officers who are sworn to enforce the laws lose credibility . . . if they violate the very laws they are sworn to enforce."[32] Drug testing through urinalysis diminishes the prospect that testimony susceptible to impeachment will be offered by law enforcement officers, and therefore, furthers a legitimate governmental interest.

Morale and Safety in the Workplace

A fifth interest of the government to be balanced against the individual officer's right of privacy is the need to provide a safe and effective work environment. The nature of police work frequently places police officers in life-threatening jeopardy. The resolution of such perilous situations often depends heavily upon the reactions of fellow officers. Every law enforcement officer has the right to be secure in the knowledge that his/her partner, back-up offi-

"The government ... has a legitimate interest in detecting and deterring drug abuse among its personnel to prevent the corruption of its law enforcement employees to the detriment of both the organization and society."

cers, and all responding fellow officers are capable of reacting in a safe and effective manner. This requires all law enforcement officers to be free from the physical effects of drugs, and free from the restraints which drug abuse forces upon officers in terms of desire and willingness to enforce the laws. The moral and legal obligation to insure that will happen must be shared by both police management and individual officers. "[D]rug use by [a law enforcement officer] could affect the success of an operation implicating important ... law enforcement objectives and could pose risk of injury to other [law enforcement officers] working with him."[33] Urinalysis drug testing is a method by which this interest can be protected.[34]

Loss of Productivity

The sixth factor to be balanced against the individual's right to privacy is the loss of productivity and financial cost attributable to drug abuse. Much has been written about the decline in productivity and the rise in health benefit costs as a result of drug abuse by private sector workers.[35] Even conceding that drug abuse by law enforcement may not be of the same magnitude as drug abuse in private sector employment, one must readily admit that drug abuse, to any degree, will adversely affect productivity and health benefit costs.

The efficient expenditure of budgeted funds has, perhaps, never been more important than today in times of fiscal restraint. Additionally, since the budgets of law enforcement are funded from taxpayers' funds, the obligation of fiscal responsibility may even be greater than the responsibility facing private sector's management of investment dollars. Though no court has addressed the legality of drug testing by law enforcement in these terms, concern for productivity and prudent expenditure of funds must be recognized as a legitimate "governmental" interest in determining the fourth amendment reasonableness of urinalysis drug testing.

Civil Liability

The last of the "governmental" interests is that of civil liability. Members of the public who suffer injuries at the hands of law enforcement officers may bring lawsuits against the officers[36] and the city they represent.[37] If a drug abuse problem exists within a law enforcement organization, liability could attach if it were established that an officer's conduct which injured a citizen was directly linked to the failure of the department to detect and resolve the drug abuse problem.[38] While it is not suggested that fear of civil liability to be the driving force behind the implementation of a urinalysis drug testing program, it is a legitimate interest to be considered in the fourth amendment's balancing test.

(continued next month)

Footnotes

[1] T. Schneider Denenberg, *Alcohol and Drugs: Issues in the Workplace* (Bureau of National Affairs, Inc., 1984), p. v., combining economic damage attributable to both alcohol and drug dependency.

[2] J. Castro, "Battling the Enemy Within," *Time Magazine*, March 17, 1986.

[3] *Washington Post*, p. B3, June 28, 1986.

[4] Any law enforcement department or agency which is contemplating the adoption of a urinalysis drug testing program should give serious consideration to a broader policy which would encompass the issue of substance abuse. That is, of equal and perhaps even greater importance to law enforcement are the issues of alcohol abuse and the use and abuse of legal, prescription drugs. Those issues are beyond the scope of this article but are matters which should be considered as part of a comprehensive policy dealing with substance abuse and chemical dependency.

[5] *See, e.g., State* v. *Magnuson*, 308 N.W. 2d 83 (Iowa 1981) (upholding search warrant compelling production of blood and urine samples).

[6] *See, e.g., In re Fingerprinting of M.B.*, 309 A.2d 3 (N.J. Super. 1973) (compelling suspects to submit to fingerprinting based on a reasonable suspicion standard).

[7] *See, e.g., Schneckloth* v. *Bustamonte*, 412 U.S. 218 (1973).

[8] The fourth amendment of the U.S. Constitution provides: "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized."

[9] *United States* v. *Jacobsen*, 104 S.Ct. 1652, 1656 (1984).

[10] *See, Turner* v. *Fraternal Order of Police*, 500 A.2d 1005, 1009-1011 (D.C. App. 1985), J. Nebeker, concurring.

[11] *United States* v. *Katz*, 389 U.S. 347, 351 (1967).

[12] *Oliver* v. *United States*, 104 S. Ct. 1735, 1741 (1984).

[13] *See, McDonell* v. *Hunter*, 612 F. Supp. 1122 (D. Iowa 1985); *cf., Turner* v. *Fraternal Order of Police*, 500 A.2d 1005 (D.C. App. 1985), J. Nebeker, concurring.

[14] *Bell* v. *Wolfish*, 441 U.S. 520, 559 (1979).

[15] *New Jersey* v. *T.L.O.*, 105 S.Ct. 733, 744 (1985).

[16] *Id.* at 741.

[17] *Blackburn* v. *Snow*, 771 F.2d 556. 565 (1st Cir. 1985).

[18] *New Jersey* v. *T.L.O.*, *supra* note 15, at 736.

[19] *Garrity* v. *New Jersey*, 385 U.S. 493, 500 (1967). *But see, Turner* v. *Fraternal Order of Police*, 500 A.2d 1005, 1008 (D.C. App. 1985): "... the police force is a paramilitary organization dealing hourly with the general public in delicate and often dangerous situations. So we recognize that, as is expected and accepted in the military, police officers may in circumstances enjoy less constitutional protection than the ordinary citizen."

[20] *McDonell* v. *Hunter*, 612 F.Supp. 1122, 1127 (D. Iowa 1985).

[21] *Camara* v. *Municipal Court*, 387 U.S. 523, 530 (1967).

[22] *Shoemaker* v. *Handel*, 619 F.Supp. 1089, 1098 (D. New Jersey 1985), *aff'd* ___ F.2d ___ (3d Cir. 1986). *But see, Allen* v. *City of Marietta*, 601 F.Supp. 482. 489–91 (N.D. Georgia 1985).

[23] *See, e.g.*, P. Mann, *Marijuana Alert* (McGraw-Hill, 1985).

[24] *Supra* note 10.

[25] 500 A.2d at 1008. *See also, Allen* v. *City of Marietta*, 601 F.Supp. 482, 491 (N.D. Georgia 1985).

[26] 475 So.2d 1322 (Fla. App. 5th Dist. 1985).

[27] *Id.* at 1326 (emphasis in original).

[28] *Id.*

[29] 83 Civ. 5764, Southern District of New York, April 24, 1986.

[30] *Id.*, slip opinion at 8.

[31] For a compilation of instances of the corruption induced by illegal drugs, see 1 Drug Law Report 229–237, March–April, 1986.

[32] *City of Palm Bay* v. *Bauman*, *supra* note 26, at 1326.

[33] *Mack* v. *United States*, *supra* note 29, slip opinion at 8.

[34] *See also, Egger* v. *Phillips*, 710 F.2d 292 (7th Cir.), *cert. denied*, 464 U.S. 918 (1983), concerning the need and ability of law enforcement management to take those measures necessary to ensure *esprit de corps* and prevent disruption in the workplace.

[35] *See, e.g.*, P. Mann, *Marijuana Alert*, *supra* note 23, pp. 35–47.

[36] *See, e.g.*, 42 U.S.C. §1983.

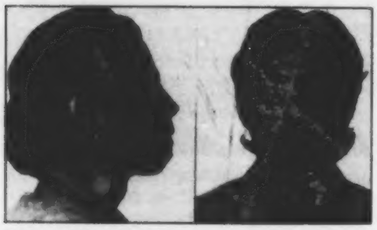
[37] *Monell* v. *Department of Social Services*, *supra* 436 U.S. 658 (1978); *Pembaur* v. *City of Cincinnati*, 106 S.Ct. 1292 (1986).

[38] *See, Bonsignore* v. *City of New York*, 521 F. Supp. 394 (S.D.N.Y. 1981), *aff'd*, 683 F.2d 635 (2d Cir. 1982) (liability for failure to identify officers psychologically unfit to carry weapons); *Marchese* v. *Lucas*, 758 F.2d 181 (4th Cir. 1985) (liability for failure to investigate allegations of excessive force and impose appropriate discipline). Compare *Daniels* v. *Williams*, 106 S.Ct. 662 (1986), requiring proof above simple negligence to support a claim under 42 U.S.C. §1983.

WANTED BY THE FBI

Any person having information which might assist in locating these fugitives is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Because of the time factor in printing the FBI Law Enforcement Bulletin, *there is the possibility that these fugitives have already been apprehended. The nearest office of the FBI will have current information on the fugitives' status.*



Photographs taken 1976

Richard Rodriguez,

also known as "Richie" Rodriguez, Richard Rodriguez, Fredrico Sanchez, Jesue Vallamon, Jesus Vallanon, "Bug," "Indio." W (Puerto Rican descent); born 10-31-49, New York, NY; 5'8"; 140 lbs; med bld; blk hair; brn (dyslexia, rt. eye "wanders") eyes; med olive comp; occ-electrician, laborer-warehouseman, plane mechanic, sheet metal worker; scars and marks: scar on left ankle; remarks: likes horseback riding and camping, reportedly an expert with a bow and arrow. Wanted by FBI for INTERSTATE FLIGHT-ESCAPE.

NCIC Classification:

1705071114160506PM14

Fingerprint Classification:

$$\frac{\text{17 L1 U III 14}}{\text{M 2 U IIM}}$$

I.O. 4882

Social Security
Number Used: 562-80-2796

FBI No. 2 639 K3

Caution

Rodriguez, a convicted assassin who may be associated with and receiving aid from extremist revolutionary groups, is being sought as an escapee from prison where he was serving a life sentence for an execution-style murder. Consider Rodriguez armed, extremely dangerous, and an escape risk.

Right index fingerprint

Photograph taken unknown.

Charles Allen Atkins,

also known as Charles Allen Atkin, Robert D. Gordon, Arthur Johnson, Arthur J. Johnson, Jeffery Leroy Loveday, Jeffrey Leroy Loveday, James Kevin McGuire, Charles William Rice, Charles William Rice, Jr., Ronald Carl White, "Charlie." W; born 3-2-54, Trinidad, CO, 6'2"; 175 lbs; thin bld; brn hair; brn eyes; fair with pock mark comp; occ-carpet layer, laborer, merchant marine, mine worker, security guard; scars and marks: scars on calf of right and left legs.

Wanted by FBI for BANK LARCENY.

NCIC Classification:

23AA0105081754TT0710

Fingerprint Classification:

$$\frac{\text{23 L 1 A 8}}{\text{L 1 Rt}} \quad \text{Ref: } \frac{\text{A}}{\text{T}}$$

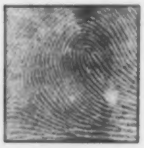
I.O. 4880

Social Security
Numbers Used: 291-58-8306; 376-86-5124;
291-58-5494; 271-56-8613;
292-54-5173; 441-60-5135;
564-80-7139

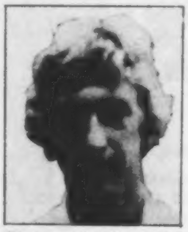
FBI No. 758 660 H

Caution

Atkins, who is knowledgeable in the use of handguns, may be armed with a .357 magnum revolver. Atkins is being sought in connection with the theft of over $1 million from the Purolator Armored, Incorporated Company in Denver, CO. He should be considered armed and dangerous.



Right thumbprint



Photograph taken 1980

William Claybourne Taylor,

also known as Michael A. Cauley, Michael Ferris Cauley, Michael Ferris Cawley, Clay Taylor, Wm. C. Taylor, William Clay Taylor, William Claybourne Taylor VII. W; born 7-2-49, Jacksonville, FL; 6'4"; 200 lbs; med bld; bld hair (has been dyed red in the past); bl eyes; fair-ruddy comp; occ-advertising, convenience store clerk, dance instructor, key punch operator, painter, trumpet player; scars and marks: scar at base of right index finger and right middle finger, burn scar on right forearm, scar on left side, halfmoon scar on one knee; remarks: reportedly bisexual, sometimes wears a mustache, frequents adult bookstores, heavy drinker.

Wanted by FBI for INTERSTATE FLIGHT-MURDER, AGGRAVATED BATTERY.

NCIC Classification:

POPMTTCO18040309CI15

Fingerprint Classification:

$$\frac{\text{4 O 25 Wt 18}}{\text{S 18 U}}$$

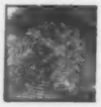
I.O. 4886

Social Security
Numbers Used: 411-27-5151; 414-80-2662

FBI No. 554 560 G

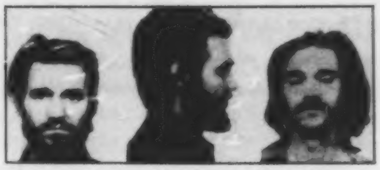
Caution

Taylor, an alleged hired assassin, is being sought in connection with the shotgun slaying of a former Immigration and Naturalization Service official and the aggravated battery of another victim who survived three .32-caliber pistol wounds. Consider Taylor armed and dangerous.



Right little fingerprint

WANTED BY THE FBI



Photographs taken 1977 and 1978

David Franklin Cantrell,

also known as Dave Cantrell, David F. Cantrell, David Cantrell, Davie Cantrell, Dave Howdeshell, James Howdeshell, David Woods, "Dave," "Davie."
W; born 9-25-39, Washington County, MO; 5'9"; 132 lbs; med bld; brn (may be dyed blk, brn, or auburn) hair; bl eyes; med comp; occ-carpet layer, laborer;
scars and marks: diagonal scar center of forehead; tattoos; "DAVID" and a dagger on right arm, eagle's head on left hand;
remarks: reportedly a heavy drinker, frequents bars.
Wanted by FBI for INTERSTATE FLIGHT-MURDER.

NCIC Classification:
21TT0402071602TT0413

Fingerprint Classification:

$$\frac{\text{21 L 1 T 7}}{\text{M 1 Ut}} \quad \text{Ref:} \quad \frac{\text{T U U}}{\text{T T U}}$$

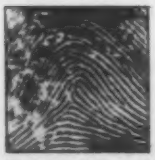
I.O. 4886

Social Security
Numbers Used: 490-38-1611; 490-38-4611

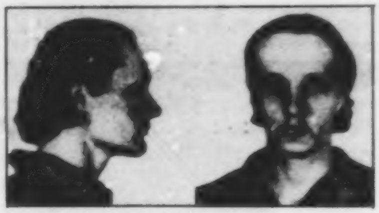
FBI No. 309 969 C

Caution

Cantrell, who is believed to carry a handgun at all times, is being sought in connection with a murder wherein the victim was shot twice in the chest. Consider Cantrell armed and dangerous.



Right ring fingerprint



Photographs taken 1972

Carl Alfred Eder.

also known as Charles Eder, Charles Harrison, John Wehee. W; born 6-30-42, Rochester, NY; 6'2"; 165-175 lbs; slm bld; bld (receding) hair; bl eye; fair comp; occ-(in prison) cabinet maker, lab technician, leather worker, machinist, mechanic (boat engines);
scars and marks: scar on left hand between thumb and forefinger, scar from gall bladder surgery;
remarks: follower of Zen Buddhism, a loner, recluse, and an outdoor-type.
Wanted by FBI for INTERSTATE FLIGHT-MURDER.

NCIC Classification:
185408050819TT081007

Fingerprint Classification:

$$\frac{\text{18 M 1 R III 8}}{\text{L 1 T II}} \quad \text{Ref:} \quad \frac{\text{T T R}}{\text{T U U}}$$

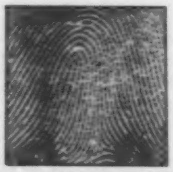
I.O. 4878

Social Security
Number Used: 557-92-5576

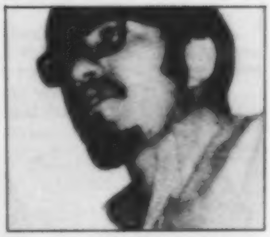
FBI No. 144 932 D

Caution

Eder, who is being sought as an escapee from custody, was at the time of escape serving a life sentence for the shooting and stabbing murders of a woman and her four children. Eder has stated he will go to any length to avoid recapture. Consider Eder armed, extremely dangerous, and an escape risk.



Left middle fingerprint



Photograph taken unknown

Arturo Leroy Martinez,

also known as Art Martinez, Art Leroy Martinez, Arthur Martinez, Arthur Leroy Martinez, Arturo L. Matrinez.
W (Spanish descent); 1-26-48, Salt Lake City, UT (not supported by birth records); 5'8"; 150-170 lbs; med bld; blk hair; brn eyes, med comp; occ-cab driver, farm laborer, machine shop helper, maintenance man, truck driver;
scars and marks: scar on outer right arm, round brown mole left side of upper back; tattoo: cartoon of Speedy Gonzales with Mexican sombrero on upper right arm;
remarks; wears prescription glasses for nearsightedness.
Wanted by FBI for INTERSTATE FLIGHT-MURDER.

NCIC Classification:
PO731221152266TT1813

Fingerprint Classification:

$$\frac{\text{23 O 1 R 15}}{\text{L17 Rt}}$$

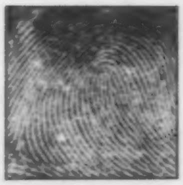
I.O. 4891

Social Security
Number Used: 585-22-0811

FBI No. 644 567 G

Caution

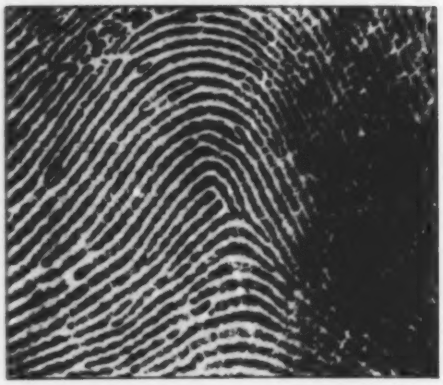
Martinez is being sought in connection with a slaying in which the victim was allegedly shot with a handgun. Consider Martinez armed and dangerous.



Left index fingerprint

Referenced Pattern

The pattern presented possesses two ending ridges on or about the same plane, plus a delta formation, and is classified as a tented arch. At one point in the history of the Identification Division such patterns were classified as plain arches. Because of this change in definition, the pattern type is automatically referenced to a plain arch.



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The Bulletin Notes

Officer Emiliano Sepulveda, Jr., of the Port Authority of NY and NJ police, while off duty in October 1984, and accompanied by his family, saw a large gang of youths pursuing one or two youths in the Bronx, NY. After seeing to the safety of his family, Officer Sepulveda was able to stop a knife attack on the two youths, render first aid to both, and according to hospital personnel, saved their lives. The Bulletin is pleased to join Officer Sepulveda's superiors and the Carnegie Hero Fund in recognizing his heroism.

Officer Sepulveda

55/11

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Law Enforcement Bulletin

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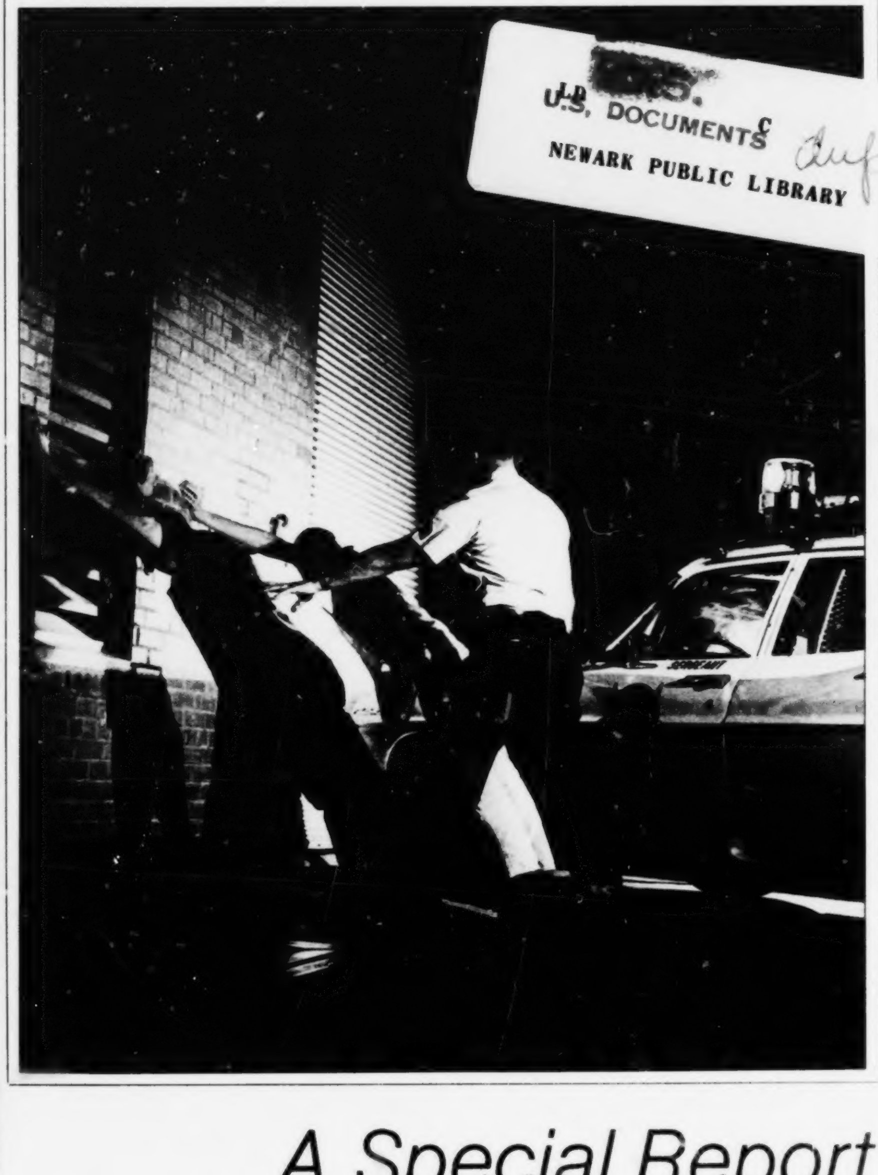

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A Special Report

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FBI
Law Enforcement Bulletin

United States Department of Justice
Federal Bureau of Investigation
Washington, DC 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 6, 1988.

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Patrick V. Murphy (left) presents award from the Police Foundation for law enforcement leadership to FBI Director William H. Webster.

The Police Foundation

A Special Report

By
THOMAS J. DEAKIN
Special Agent/Editor,
FBI Law Enforcement Bulletin

The dramatic opening moments of the Police Foundation's series of "Crime File" videos are reminiscent of the popular "Hill Street Blues" television series: Scenes of officers at role call, on patrol, in raids, ending with a courtroom scene. More realistic than commercial television, these videos, produced by the Police Foundation under a grant from the National Institute of Justice, contain thoughtful, balanced analyses of issues affecting police work today.

These half-hour programs, a new medium for dissemination of research results and debate in criminal justice, are important to the public, the public's elected policymakers, and to the police themselves. The newly appointed President of the Police Foundation, Hubert Williams, wants to increase the foundation's support of law enforcement agencies seeking to adopt more-effective means to accomplish their missions. Generating public and policymaker support of innovation, a purpose of these "Crime File" television productions, is one way of helping law enforcement to achieve this goal.

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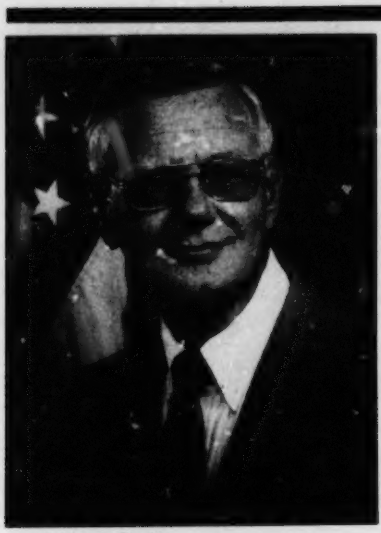

Special Agent Deakin

The Police Foundation was initially best known for its year-long Kansas City Preventive Patrol Experiment, conducted with the cooperation of Clarence M. Kelley, then Chief of the Kansas City, MO, Police Department. Completed in 1973, this study showed that the level of preventive police patrol did not affect the crime rate or citizens' fear of crime.

This conclusion caused a reexamination of one of policing's basic tenets, that crime is prevented by random police patrol. Perhaps as important, the study opened policing's door to experimentation by showing that experiments could be conducted while a police department carried out its responsibilities to life and property. This was one of the goals of the Police Foundation: To overcome natural police objections to experimentation, objections based on fear the process would interfere with normal operations and obligations.

What is the Police Foundation and what is it trying to accomplish? What has been its impact on policing? How will the foundation's work affect the future of policing?

> "The mission of the Police Foundation is to foster improvement and innovation in American policing and, thus, to help the police in their mission of reducing crime and disorder in America's cities."[1]

Beyond this basic mission statement, underlying assumptions about police work guide the foundation; over the last 16 years, these assumptions have become guiding standards for much of American policing. The foundation believes that the control of crime and the maintenance of order depend on the cooperation of citizens, thus police must be close to the citizens they serve. This belief is now a tenet of police practice that has helped to foster today's neighborhood policing programs and a variety of other programs designed to bring police and the citizenry closer together.

Other Police Foundation operating assumptions include:

> "That the police must be willing to examine their practices and question and experiment with the ways they use their resources; That the police must be prudent and civil in the ways they use their discretion, especially in the use of force; That to be effective in controlling crime and maintaining order in the diverse communities of the nation's cities, police departments should actively hire and promote members of minorities and women; That, because of cutbacks in local funding for many police departments the police must do more with less."[2]

In many ways, especially the last, these assumptions are today governing the ways police do their job. Experiments with ways of using resources, prudence in the use of force (also as mandated recently by the Supreme Court), and hiring and promoting minorities (the number of black chiefs of police has greatly increased in recent years) are ways in which the police are seeking to do more with less, as evidenced in the pages of this Bulletin.

Ford Foundation Origins

On July 1, 1970, McGeorge Bundy, President of the Ford Foundation, met with then FBI Director J. Edgar Hoover and outlined the Ford Foundation's plan to begin a Police Development Fund, which would have $30 million to spend over the next 5 years. Three weeks later, on July 22,

"The mission of the Police Foundation is to foster improvement and innovation in American policing. . . ."

Bundy held a press conference in New York City to announce the fund, which would make grants to police departments to bring about major reforms.

At the press conference, Bundy introduced Ivan Allen, Jr., former Mayor of Atlanta, GA, who would be the chairman of the board of the new organization. The board would include members of the legal, academic, and police communities, including Quinn Tamm, Executive Director of the International Association of Chiefs of Police (IACP) and a former FBI executive. Executive Director of the fund would be Charles H. Rogovin, former head of the Law Enforcement Assistance Administration and previously an Assistant Attorney General of Massachusetts.

Other members of the board with police backgrounds included Michael Canlis, then President of the National Sheriff's Association; Hubert Locke, former Deputy Police Commissioner of Detroit and a professor at Wayne State University; David McCandless, Director of the Southern Police Institute in Louisville, KY; Lawrence Pierce, a former Deputy Commissioner of the New York City Police Department; and Stanley Schrotel, former Chief of Police in Cincinnati.[3]

A report on the newly established police development fund was issued at the press conference. In the foreword by McGeorge Bundy, the social changes of the 1960's were outlined as reasons for this new Ford Foundation effort:

> "The need for reinforcement and change in police work has become more urgent than ever in the last decade because of rising rates of crime, increased resort to violence, and rising tension, in many communities, between disaffected or angry groups and the police."[4]

The report noted that America had realized in recent years that there was a "seriously high incidence of crime" and the "system of criminal justice is inadequate for its prevention or the apprehension of criminals." The 1965 Presidential Commission report, "The Challenge of Crime in a Free Society," recommended far-reaching improvements, and later reports from the Commission on Civil Disorders (the Kerner Commission) and the Commission of the Causes and Prevention of Violence (the Eisenhower Commission) added significant observations on the need for more effective policing.

These commission reports observed that a fundamental attack on crime would require a national effort to lessen poverty, slums, ill health, and illiteracy, but the Ford Foundation said remedies to the criminal justice system "cannot wait for action on the full range of our social ills." Noting that Federal funds would be available in the 1970's to assist local police for the first time (the Law Enforcement Assistance Administration), the foundation expressed concern whether our society would end up with more of the same system or with "something new and significantly different" in policing, because:

> "We leave to the police many of society's problems, whether or not they are equipped to handle them. We have neither articulated a precise role for them in combatting crime, nor structured their broader role in the community. Nevertheless, whenever the lid blows, we call the police."[5]

The Ford Foundation established a $30 million fund to "assist a limited number of police departments in experiments and demonstrations aimed at improving operations, and to support special education and training projects." The fund would join with Federal, State, and local agencies in order to increase its impact.

James Q. Wilson, today's Chairman of the Board of Directors of the Police Foundation and a Professor of Government at Harvard University, told the Bulletin that the Police Foundation took its present name immediately after the Ford Foundation announcement of the formation of a Police Development Fund, to avoid any connotation that the "fund" was to improve policing in the manner of improving underdeveloped countries.

Wilson, an original member of the board of directors, said that a difference in policy priorities between the board and the Police Foundation's first President, Charles H. Rogovin, led to the selection of Patrick Murphy as the new chief executive officer of the foundation in 1973. The board wanted a research focus for the foundation while Rogovin, the board felt, was more interested in an emphasis on police leadership development and training.[6]

Another member of the Police Foundation's Board of Directors noted that the board is self-perpetuating; members elect new members as vacancies occur, and there is now a 6-year term of office for members of the board. The board, in the main, depends on the Police Foundation staff to present potential research topics which the board considers.[7]

Preventive Patrol Experiment

The first study to impact police operational practices was the landmark Kansas City Preventive Patrol Experiment. Conducted from October 1,

"'whenever the lid blows, we call the police.'"

1972, to September 30, 1973, this study showed that increasing or decreasing the level of routine preventive patrol had no appreciable effect on crime, fear of crime, or citizen satisfaction with police services.

As Murphy's foreword to this report noted:

> "It is not easy for police departments to conduct operational experiments. For one thing, maintaining experimental conditions cannot be permitted to interfere with police responsibility for life and property."[8]

Murphy had just become President of the Police Foundation after beginning his law enforcement career as a New York City patrolman and working his way up to commissioner of the country's largest police department. Along the way he served as the top police executive in three other large cities. His willingness to experiment, advocacy of new ideas, and police experience, along with his unique service as the top police executive in four of the country's largest cities, made him the best known and most respected police innovator since August Vollmer, many police executives have noted. Murphy retired from the Police Foundation in 1985; his long-range impact on American policing nationally probably will be judged by students of police history as significant as that of August Vollmer or J. Edgar Hoover.

The Kansas City Police Department and the Police Foundation began the experiment under Chief of Police Kelley, who was appointed Director of the FBI before the study's completion. His successor, Joseph D. McNamara, said the experiment repudiated "a tradition prevailing in police work for almost 150 years." Routine preventive patrol is the widely practiced patrol strategy which assumes that the impression of police omnipresence on the streets through cruising patrol cars will deter potential offenders.

The principal spokesman for this widely accepted theory of preventive patrol had been O. W. Wilson, a veteran of the Berkeley Police Department, Chief of Police in Wichita, KS, and a prominent academic theorist on police issues. Later, he was the Superintendent of Police in Chicago. As Murphy noted:

> "<this project> ranks among the very few major social experiments ever to be completed ... never before had there been an attempt to determine through such scientific examination the value of visible police patrol."[9]

This was only the first in a series of social experiments to test the tenets of policing. The concluding chapter of Murphy's 1977 book, *Commissioner*, speaks of the work of the Police Foundation: Its philosophy "rests not on the proposition that American policing, with minor modifications, is in good shape but on precisely the opposite."[10]

The Police Foundation initiated experimental studies using proven scientific technique. For example, the Kansas City preventive patrol evaluation divided one patrol division's 15 beats into an experimental area of 3 groups of 5 beats, using computer-based techniques, with similar crime figures, population characteristics, and calls for police service. One group of beats was designated "reactive," where preventive patrol was eliminated and patrol cars entered only in response to calls for service. A second set of beats was the "control," where the usual level of preventive patrol was maintained. A third "proactive" group of beats, with two or three times the usual level of preventive patrol, was established.

Victimization surveys before and after the experiment, reaching a total of 1,200 households, also determined the fear of crime and attitudes of citizens and businessmen toward police. The three sets of experimental patrol conditions—reactive, proactive, and control—appeared not to affect crime, delivery of police services, or the fear of crime in the way police often assume they do. Even one fear of the experimenters, that traffic accidents would increase in the reactive group of beats, did not occur.

This experiment was conducted by the Kansas City Police Department and evaluated by the Police Foundation. One police officer was one of four authors of the subsequent report, and another officer acted as one of the observers of the experiments. Three other officers and seven administrators of the department contributed directly to the project. Numerous academic consultants and the Midwest Research Institute helped design the surveys used and analyzed the data produced.[11]

Other Studies

The decade of the 1970's brought numerous experiment reports and other studies of law enforcement issues to this country's police community. These experiments were carefully designed by social scientists using the latest methods of statistical analysis and verification, in cooperation with the various police departments that were helping conduct the tests. And the various experiments and reports were on subjects that the law enforcement community recognized as important issues for policing. This was a successful effort to prove the validity of Police

Foundation experimental methods that produced valid conclusions. The few earlier analyses of policing had not been accepted by the law enforcement community because the research methods or the data had been found lacking in some aspects.

Some of the issues addressed in 1974, the year of the Kansas City patrol experiment, included the subject of policewomen on patrol in Washington, DC. The Police Foundation report concluded that gender is not a legitimate occupational qualification for patrol work. This year also saw publication of *Guidelines and Papers from the National Symposium on Police Labor Relations*, jointly sponsored by the IACP and the Police Foundation. The next year, 1975, brought a study of officer height and its relationship to selected aspects of performance; a study of the cost and impact of police corruption; and an experiment in San Diego, CA, that showed the value of field interrogation in deterring certain crimes, particularly those committed by youths in groups.

Then, in 1976, there were reports on experiments that addressed the peer review approach to modifying the behavior of police officers (*Kansas City Peer Review Panel*, 1976); the effectiveness of patrol officers and detectives working in teams in Rochester, NY (*Managing Investigations*, 1976); a study of three intervention approaches—authority, negotiation, and counseling—which led a majority of officers in the experiment to decide that negotiation was the most important approach for recruits to learn (*The Police and Interpersonal Conflict*, 1976). Police personnel exchanges, the experience of six California cities; *Police Response Time* not strongly affecting citizen satisfaction with police service in Kansas City, MO (1976); and different approaches to criminal apprehension in Kansas City were published in 1976, along with *Police Chief Selection: A Handbook for Local Government.*

The next year brought a report on *Patrol Staffing in San Diego* (1977), a most important study of the comparative effectiveness and safety of one- or two-officer units which concluded that one-officer units are more efficient and safer. This year saw the results of studies in Detroit and Kansas City showing the importance of threats as predictors of domestic violence (*Domestic Violence and the Police*, 1977), a critical area to police patrol officers. The hard-to-maintain, but useful, team policing concept as an alternative to traditional patrol methods was detailed (*Cincinnati Team Policing Experiment*, 1977).

Performance Appraisal in Police Departments, Police Personnel Management Information Systems, and *Selection through Assessment Centers: A Tool for Police Departments* were all the subjects of 1977 reports. The next year brought a general administrative survey, *Police Practices*, 1978, which was a continuation of a study begun in 1951 by the Kansas City Police Department, and the history of a failed attempt to bring about radical change in a major American police department (*The Dallas Experience*, 1978).

The quality and quantity of these experiments and reports brought credit to the Police Foundation and to the social scientists who designed and implemented these pioneering studies. In a single decade, the Police Foundation had become a force for change and improvement in American policing.

Deadly Force

Consistency in his views on police use of deadly force is one mark of Patrick Murphy's innovative philosophy. When he was Police Commissioner of New York City, he changed the department's policies in this area, modeling them after the long-established FBI policy of using firearms only when necessary to protect the lives of officers or citizens, not to shoot those fleeing from a crime. In his testimony before the House District Committee, Murphy noted that restrictions on the use of deadly force can ease police-citizen tensions that lead to urban unrest. As he put it:

> "The most distinctive characteristic of policing is the authority to use force. But with this authority comes the responsibility never to misuse it. This responsibility translates into an imperative on the part of police management to control police discretion so that officers employ only that degree of force necessary to do their job fairly and humanely.
>
> "The use of force at its most extreme is the use of deadly force which can be described as the decision of a police officer to point a service revolver at another human being and fire it. This is the most momentous decision a human being can make—to take another life.
>
> "Limiting the frequency of such decisions is one of the most important goals for the police chief and for the police agency."[13]

Six years later, the U.S. Supreme Court confirmed Murphy's, and the FBI's, views on law enforcement's use of deadly force for all the Nation's police.

This concern with police use of deadly force was also seen in the Police Foundation's review of the litera-

"[Murphy's] long-range impact on American policing nationally probably will be judged by students of police history as significant as that of August Vollmer or J. Edgar Hoover."

ture on the subject and a survey of seven cities' use of it in a 1977 report, *Police Use of Deadly Force,* followed in 1981 by *Readings on Police Use of Deadly Force,* edited by American University professor James J. Fyfe. Fyfe is a former lieutenant with the New York City Police Department, where he served for 16 years, and today is recognized as one of the foremost authorities in this field. Fyfe's anthology of major articles from authorities on police use of deadly force includes two that originally appeared in the *FBI Law Enforcement Bulletin* written by an FBI Agent in the Legal Counsel Division.

This valuable collection of articles was in response to the many requests of the Police Foundation for information on deadly force. As Fyfe noted:

> "Often these requests come from small and medium sized jurisdictions in which single shootings have made deadly force a major concern. In some cases, that concern has also expressed itself in disorder, protests, and tensions which have led to the downfall of city administrations and police chiefs, and in enormous burdens to taxpayers."[14]

Fyfe currently is directing an experiment, funded by the Metro Dade County, FL, Police Department, that is designed to identify techniques useful in defusing potentially violent police encounters with citizens.

Foot Patrol

In 1968, James Q. Wilson wrote of the three major styles of policing in America in *Varieties of Police Behavior.* These are the "watchman" style (police who are mainly concerned with the physical security of the community and its people), the "stranger" style (police as virtual outsiders brought in to impose order in a community), and the "community service" mode, where police recognize their dual roles of crime prevention and order maintenance, plus miscellaneous service duties. While some suburban departments have long had this last style of policing and some big city departments are moving in this direction, more needs to be done, according to Wilson.

People want a "visible police presence" to improve the quality of life in their communities, recent studies have shown, according to Wilson, and this requires at least some police foot patrol. The Kansas City preventive patrol experiment early on showed that random motor patrol did not materially affect the crime rate or the community's fear of crime. The most promising developments for actually having an impact on the crime rate are the programs targeted at removing high-rate repeat offenders from the streets.

As a young patrolman in New York City after World War II, Patrick Murphy learned the value of contact with the citizens he served on foot patrol. In New Jersey, passage of the Safe and Clean Neighborhoods Program in 1973 made State funds available for foot patrol in selected cities (28 in 1975, rising to 32 in 1980) in compliance with State criteria. Two-thirds of the $12 million allocated was available for the "safe" part of the program. As a result of inquiries from State officials to the Police Foundation as to the cost-effectiveness of this program, the foundation undertook a multi-faceted study of the question of foot patrol.

In Newark, NJ, the foundation worked with the police department and the State to design an experiment with foot patrol to test a number of hypotheses: That (1) foot patrol would improve citizen attitudes toward police, (2) foot patrol would reduce crime, either reported crime or crime victimization, (3) foot patrol would increase the number of arrests, and (4) foot patrol would increase job satisfaction of officers assigned it.

The complexities of conducting the overall New Jersey survey, and especially the Newark experiment, fill a 130-page report (*The Newark Foot Patrol Experiment,* 1981), which affords a perception of the difficulties faced by the researchers in such a project. But the findings developed shed new light on foot patrol: (1) Residents were aware of foot patrol to a much greater extent than motorized patrol and viewed police more favorably as a result, (2) crime rates, measured by reported crime or by victimization surveys, were *not* affected, (3) residents *perceived* diminishment of crime and disorder problems, and (4) officer job satisfaction did increase.

As Murphy's preface to this report notes:

> "One of the questions citizens most asked of mayors, council members, and police chiefs is, 'Why don't we have foot patrol, like in the good old days?' The good old days were a time of tightly knit urban neighborhoods ... and few patrol cars in which officers could be encapsulated and made remote from the citizens they served.... Citizens associate the officer on the foot beat with a time when crime rates were low and they felt secure in their neighborhoods.
>
> "<This> study concludes that, although foot patrol (like routine motor patrol ...) does not appreciably reduce or prevent crime, it does measurably and significantly affect citizens' feeling of safety and mobility in their neighborhoods."[15]

Domestic Violence

Perception of citizen safety, on the part of women especially, entered into the Minneapolis Domestic Violence Experiment, which took place over a year and a half in 1981 and 1982. Under a grant from the National Institute of Justice (NIJ), a cooperative effort on the part of the Minneapolis Police Department and the Police Foundation tested police responses to domestic violence, which is "the staple and bane of every patrol officer's work life," according to former police officer James K. Stewart, now NIJ Director.

As the Police Foundation summary report on this project noted, this "was the first scientifically controlled test of the effects of arrest for any crime." And the experiment showed that of the three standard methods police use in responding to domestic violence—arrest, counseling both parties, or sending assailants away from home for several hours—arrest was the most effective response as it resulted in considerably less recidivism.[16]

The purpose of this experiment was to test the validity and effectiveness of 1) the traditional police response of doing as little as possible in domestic violence cases because the offenders would not be punished by the courts, 2) the psychologists' view that police mediate these disputes, but not make arrests, or 3) the approach recommended by the Police Executive Research Forum and by many women's groups that police treat domestic violence as a criminal offense subject to arrest.

Previous research in this area suggested that arrests take place in less than 10 percent of the cases, in spite of violence in one- to two-thirds of the incidents. Recently liberalized legislation in Minnesota, allowing police to make arrests for misdemeanor assault without having witnessed the assault, allowed design of a classic lottery-type experiment. The three different responses being tested—arrest, counseling, and separation—were governed by a color-coded set of report forms for officers' use, alternating colors dictated the response the officers were to follow in each case.

Followup interviews by a female staff, plus criminal justice reports on the alleged assailants, were collected for 6 months after the experiment in the 314 cases studied. Only 3 of the 136 suspects arrested received formal sanction from a judge, but all spent the night in jail. The Police Foundation Report on this experiment carefully notes all the variables that might have affected the results, but the clear conclusion is that arrest has the best potential of reducing repeat violence in these types of cases. This could have tremendous impact on legislative action in other States that would effect police actions in domestic violence cases.

"Crime File" Videos

Domestic violence, like the police use of deadly force, is also the subject of a "Crime File" video, a new medium for the Police Foundation. Funded by the National Institute of Justice (NIJ), part of the U.S. Department of Justice, the "Crime File" is a series of 22 half-hour video presentations that the NIJ calls a "quick course in criminal justice." Four-page study guides have been developed for each program to supplement the visual information with necessary historical background and additional sources.

Covering a broad range of topics—deadly force, domestic violence, foot patrol, gun control, prison crowding, jail, search and seizure, victims, etc.—these tapes can be used before community gatherings to broaden perspectives for citizens and their community leaders, according to NIJ. The FBI is also using the tapes as part of its nationwide police training effort, as the programs present authorities in each area who address all sides of sometimes controversial issues. Professionally taped at a public television station in Washington DC, the whole series of programs, with study guides, is available for under $400 from the NIJ.

Moderator of these programs is James Q. Wilson, Chairman of the Police Foundation's Board of Directors,

James Q. Wilson, Chairman of the Board of the Police Foundation, is the moderator of the Crime File videos.

To obtain tapes of the Crime File series, write National Criminal Justice Reference Service, Box 6000 BCD, Rockville, MD 20850, or call 800-851-3420.

"'[The Kansas City Preventive Patrol Experiment] ranks among the very few major social experiments ever to be completed. . . .'"

who selected the topics and questions for these videos. Wilson's even-handed appearance as moderator adds credence to the authority and balance of the programs. Some of the videos include presentations by veteran police officers who participated in Police Foundation experiments, which add a great deal of weight, particularly in the Newark Foot Patrol Experiment for example.

Change in Leadership

Patrick Murphy's retirement in 1985 requires an examination of future developments that can be expected under the law-trained Newark police executive who succeeded Murphy as the new President of the Foundation. Murphy and the new President, Hubert Williams, had been chiefs of police because the board, as Chairman Wilson explained, wanted to preserve the "strong roots" of the Police Foundation in the law enforcement community by choosing presidents with practical experience. Wilson sees this policy continuing for the foreseeable future.[18]

Hubert Williams, for 12 years a Newark, NJ, police officer who specialized in undercover narcotics work, and since 1974, the Police Director in newark, was selected as President of the Police Foundation in 1985. Williams' undergraduate degree is from John Jay College of Criminal Justice and he holds a law degree from Rutgers University School of Law.

Williams told the Bulletin that the overall mission of the Police Foundation will continue to be to improve American policing and the principal tool to realize this mission will continue to be experimental research in the field. But Williams said the foundation seeks to do more through technical assistance to help police departments in implementing the results of research. In addition, Williams said the foundation seeks to develop centers of expertise to assist police agencies in dealing with problems as diverse as the threat of domestic terrorism, the growing incidence of liability suits, and the challenge of developing and using reliable, practical measures of police effectiveness.

"In all of our efforts, we will continue to anchor our work in our constituency, the police departments of America," said Williams.

He noted that the Ford Foundation originally funded the Police Foundation for a 5-year period. But because of the organization's contributions to policing and society, the Ford Foundation has seen fit to continue its support of the Police Foundation, helping to transform it into the permanent entity it is today.

The Police Foundation currently is exploring endowment possibilities from the private sector and has taken on projects, on a selective basis, from the Federal Government to help accomplish its mission. For example, the "Crime File" video series, the Minneapolis Domestic Violence Experiment, and a project on reducing fear of Crime in Houston and Newark were all undertaken with grants from the Justice Department's National Institute of Justice.

The current President of the foundation observed that a long-standing need of police executives was a means, or combination of means, of objectively evaluating the effectiveness of their agencies. This has to be coupled with means of measuring the effectiveness of their personnel; arrest statistics are only a small part of the answer to this need. Since the Police Foundation has developed methodology to measure the effectiveness of some law enforcement programs on specific issues, the next area to be addressed should be the overall effectiveness of police departments and their personnel.

Williams called drug problems the most pressing domestic concern of the whole society. He noted its close ties to the overall crime problem; that narcotics addicts are usually unemployable and have to support their habit through street crime, often in poorer neighborhoods. He sees the unemployed of America, often uneducated, becoming "soldiers in the drug armies" that are growing across this country.[19]

Current Projects

Brian Forst, Director of Research for the Police Foundation, told the Bulletin that recently completed foundation projects includes the Houston and Newark Fear Reduction Experiment. A summary report was published this year by the Police Foundation (*Reducing Fear of Crime in Houston and Newark: A Summary Report*, 1986). Since the 1980 Figgie report on the fear of crime, the existence of this fear has been targeted by a number of strategies. The foundation and NIJ designed a testing program for many of these strategies and found that opening neighborhood police stations and stimulating formation of neighborhood organizations works best for combating fears of white, middle-class homeowners, but is less effective in rental neighborhoods. The most successful programs, such as neighborhood police centers, door-to-door contacts, community organizing by police, and the coordination of several such approaches, had two characteristics in common:

—They provided time for police to have frequent discussions with citi-

Director William H. Webster meets with Patrick V. Murphy (left), former President of the Police Foundation, and Hubert Williams (right), the new President of the Foundation.

zens who were encouraged to express their concerns about their neighborhoods, and

—They relied upon the initiative and innovativeness of individual officers to develop and implement programs responsive to the concerns of the public.

Police officers may resist these neighborhood assignments (see "The Detroit Ministation Experience" in the February 1985, issue of the *FBI Law Enforcement Bulletin*), but initial resistance gives way when officers learn how receptive citizens are to this strategy. This type of program involves a "proactive" strategy—a positive outreach—and careful recruitment of personnel, plus a commitment to the experimental method, are needed.

A summary report on the Washington, DC, repeat offender study was published in July 1986 (Catching Career Criminals: The Washington, DC Repeat Offender Project), and this approach is being replicated in San Antonio and other cities. In a program developed by the Washington, DC, Metropolitan Police Department recognizing that a small proportion of criminals commit a disproportionate number of crimes, the foundation study found that the operation of a special police unit that focused on repeat offenders increased the likelihood of arrest, prosecution, and conviction of these offenders.

In the near future, the results of an experiment testing the results of arrest or warning strategies on recidivism among shoplifters will be published.

Forst said that a recent survey of police strategies to deal with the drug problem is the beginning of a new Police Foundation focus on law enforcement and the narcotics problem, which will be the subject of a future article in the *FBI Law Enforcement Bulletin*.[20]

The Future

FBI Director William H. Webster, speaking last May 17 at Patrick Murphy's retirement as President of the Police Foundation, said that the "foundation has responded well to the challenge of the hard question." In accepting the first Patrick V. Murphy Award in law enforcement leadership, established by the foundation's directors, Webster praised Murphy's "aspirations for effective, Constitutional law enforcement."

Clarence M. Kelley, the former Chief of Police in Kansas City who worked closely with the Police Foundation on its earliest projects, became a member of the Police Foundation Board when he retired as Director of the FBI in 1978. Kelley told the Bulletin that since the report by the Police Foundation on preventive patrol in Kansas City, which addressed the effectiveness of patrol and has since been replicated by other police departments, the solid research work done by the foundation has led to a greater acceptance over the years of the foundation's reports and studies by police executives. Kelley said the foundation has contributed "a great many studies of great value," citing the recent report on the handling of domestic violence, that go to the heart of policing today.

"FBI Director William H. Webster... said that the 'foundation has responded well to the challenge of the hard question.'"

Mentioning the pioneering work the Police Foundation did in 1973 in executive training for FBI executives, Kelley believes, as a result of Police Foundation work and the FBI's National Executive Institute for police officials, that police departments are today in "good hands." Police executives are willing to experiment, to learn from the experimental process, and are willing and able to institute needed changes. The Police Foundation is achieving its goal of learning how police can be more effective and police managers are now more capable of transforming their departments.[21]

The now former President of the Foundation, Patrick Murphy, said that increased education of police is at least part of the reason that police executives are willing to experiment and institute needed changes. Federal money available in the 1970's through the Law Enforcement Assistance Administration, which Murphy headed in 1968, "created the model" for the college-educated policeman. Now some States or departments offer pay incentives to police officers with college education. And the FBI National Academy, in cooperation with the University of Virginia, now offers some college credits in connection with its training. Today, Murphy sees at least those officers interested in police management as continuing on their own to get college educations, even without availability of Federal funds.

Murphy's view of policing in the near future notes that the art is improving, "but there is still an enormous amount of work to be done." He summarized to this writer five areas of concentration that need to be addressed in the remainder of this century and the next:

1) Neighborhood policing programs of all kinds need to be developed, improved, and expanded.

2) More police officers need college and graduate-level education.

3) There should be more civilianization of police departments. Civilian specialists can add to department operations and release sworn officers for police duties.

4) Departments must continue to become more representative of the communities they serve by recruiting women and minorities.

5) Restraint in the use of force, especially deadly force, must be increased.[22]

In a soon to be published chapter of a new book, the current President of the Police Foundation, Hubert Williams, echoes these needs for the future in policing.

For 12 years, the Police Foundation was led by a man of innovative and strong ideas about the directions that policing should take. Experimental testing proved many of Patrick Murphy's ideas correct. Now Hubert Williams, another innovator with his own philosophy, has taken the helm, but both men base their philosophy on that originally developed by Robert Peel, the founder of modern policing in England. Peel's view was that policing in a democratic society must be deeply rooted in the consent of those policed. Williams' thoughtful essay, "Retrenchmen, the Constitution, and Policing," in the American Bar Association's recently published collection of articles by leaders in the law enforcement community comments on the English roots of modern policing, ending with the comment that "the preservation of peace in our society cannot and should not be achieved at the expense of hard-won freedoms."[23]

We already have seen some police departments acting on conclusions that the Police Foundation has offered after rigorous experimentation over the last 15 years. And more are to come.

FBI

Footnotes

[1] Police Foundation brochure, 1986, p. 1.

[2] Id., pp. 2–3.

[3] M.A. Jones to Mr. Bishop FBI memo 7/23/70, "Concerning Police Development Fund to be sponsored by the Ford Foundation."

[4] Ford Foundation, *A More Effective Arm*, August 1970.

[5] Id. pp. 4–5.

[6] James Q. Wilson, telephonic interview with author, July 7, 1986.

[7] Patrick V. Murphy, interview with author, June 26, 1986, at Council of Mayors office, Washington, DC.

[8] George L. Kelling, et al, *The Kansas City Preventive Patrol Experiment* (Washington, DC: Police Foundation, 1974), p. iii.

[9] Id.

[10] Patrick V. Murphy and Thomas Plate, *Commissioner: A View from the Top of American Law Enforcement* (New York: Simon & Schuster, 1974), p. 256.

[11] Supra note 8, pp. xi–xii, 1–10.

[12] Police Foundation, Testimony of Patrick V. Murphy, President, before Committee on the District of Columbia, U.S. House of Representatives, June 27, 1980, typescript, p. 1.

[13] Id. p. 4.

[14] Police Foundation news release, August 9, 1982, p. 2.

[15] Police Foundation, 1981, *The Newark Foot Patrol Experiment*, Washington, DC, p. iii.

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[22] Patrick Murphy interview with author as above.

[23] William A. Geller, ed, *Police Leadership in America: Crisis and Opportunity* (New York: Praeger, 1985), p. 347.

To obtain Police Foundation publications, write to the Foundation's Communications Department, 1001 22nd Street, N.W., Washington, DC 20037, or call (202) 833-1460.

NIJ Study—
"When the Victim is a Child"

The National Institute of Justice (NIJ) has published a study of new methods for easing the trauma faced by child victims and witnesses who have to go through criminal proceedings. The report is designed for prosecutors, judges, police officers, and other professionals interested in improving the way the criminal justice system treats child abuse victims.

The study, "When the Victim is a Child," responds to an urgent need expressed by the Attorney General's Task Force on Family Violence, which called for research into the court treatment of child victims. It discusses the competency of child witnesses, child victim advocates, videotaping statements, and testimony, as well as recommended changes in hearsay statutes. Included is a comparative survey of each State's legislation to protect child witnesses in sexual abuse.

After discussing in detail the various problems both the system and the child victim face, the report makes a number of recommendations for improvements. For example, it called for an end to State laws requiring that witnesses be at least a certain age. Many States bar or greatly curtail testimony from young witnesses, whereas Federal rules permit testimony from any competent witness irrespective of age.

In addition, the report recommends the adoption of State legislation to permit special exceptions to the hearsay rule for children. Such laws would admit certain out-of-court statements to counselors or prosecutors that might otherwise be ruled out because they are not available from the young witnesses during direct

Other legal provisions examined in the report include proposals for:

—Permitting a child witness to have a support person during testimony;

—Offering services to explain the court procedures to the child and his or her family;

—Directing law enforcement officers social service agencies, and prosecutors to conduct joint investigations in each child sexual abuse case using a single trained interviewer; and

—Scheduling trials to give priority to those involving young victims and discouraging postponements.

The study, which was conducted by a private research firm, also contains appendixes on interviewing child victims and videotaping a child's statement or testimony.

The publication is for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC (stock number 027-000-01248-5). The price is $3.25. Microfiche copies are available from the National Criminal Justice Reference Service, Box 6000, Rockville, MD 20850, telephone (301) 251-5500. The toll-free number is 800-851-3420.

Fighting Fear in Baltimore County
The COPE Project

"... a new role for police might very well be that they identify all problems [in the community] that might cause fear and disruption and address them as part of their duties."

By
CORNELIUS J. BEHAN
Chief of Police
Baltimore County, MD

Criminal justice costs the American taxpayer $30 billion annually. Of this amount, the Federal Government spends about one-seventh; State governments, a third; and local governments, the remainder. Yet, our local police departments operate *without* a clearly defined, agreed-upon mission. Nowhere in the laws, rules, or regulations is a specific mission stated.

One reason for this is the way law enforcement developed in America. Police officers were not meant to have too much power; Americans cherish individual liberty and freedom.

At first, citizens policed themselves. Each family knew the rules of the community and the sanctions imposed for breaking the rules. Police were not needed, nor were they wanted. Many came to this country from Europe to escape political, religious, or economic oppression. Determined not to create regulators here to oppress them, they believed they could take care of their own problems. Law violators were "run to the ground" by the "hue and cry" and often punished right on the spot.

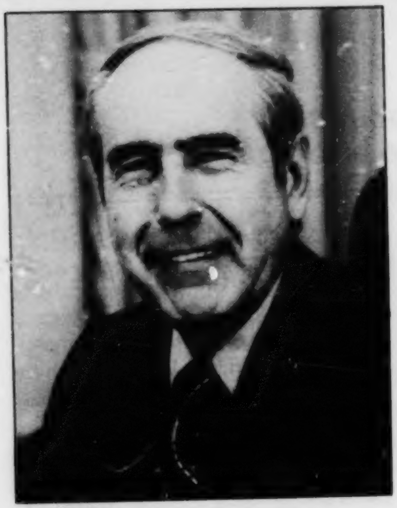
Private justice prevailed. Each individual took care of himself. When wronged, he made it right. The fault in that position is that the weak in the community were not strong enough to exercise private justice. They did not have either the wherewithal or the strength to bring it about.

Most police departments evolved as did the one in Baltimore County, MD. Prior to the Civil War, there was no police department. A night burglary from the county courthouse vault in Towson 118 years ago caused a demand, not for a policeman, but for a watchman, who was hired for the specific purpose of watching during the night. Later, when Baltimore County hired a police force, it was limited to 30 men—just 30—to ensure they wouldn't intrude on anyone's personal freedom.

Private justice was being replaced by public justice, which allows that everyone is equal under the law and equal in its protection. Victims without the physical or mental capabilities to capture their assailants now had the State to do it for them. Obviously, this makes more sense and has more equity than private justice.

In this process, however, citizens never gave up their right to protect themselves. They kept the power of arrest and the power to use force to protect themselves from bodily harm.

Today, this country's 16,000 or more local police departments are decentralized—accountable to the people in their own jurisdictions and limited in their power. The police mission is what the public wants, and that changes constantly. Citizens want more than crime fighting. At least 70 percent of our efforts in Baltimore County have nothing to do with crime but apply to service. It's the same in other communities. This shows how vague the police mission is—that people mainly decide what police do. We help stranded motorists. When a storm breaks a power line or a water main bursts in the street, the police are called. When a woman goes into labor, or a boat overturns, or a child is missing, people turn to the police. At one time, the police in New York City picked up the garbage. Public health was considered an appropriate police objective.



Chief Behan

Through this unstable environment, the police forces in this country have tried to improve. We have always asked ourselves, "What should we do about crime; how do we improve our service or use technology?" Improvement comes by diligently trying to answer these questions. We now study constitutional law. We have substituted constraint for confrontation and modified our use of force. We study and deal with human and civil rights. And, we're trying to adapt to mini- and micro-computers.

Twenty years ago, these matters were not even discussed. Now, they are part of all basic and inservice police academy training and are very important to the way police departments operate.

Attacking Fear

We recently asked ourselves two new questions: "What is being done about the fear of crime?" and "Whose role is it to reduce fear in a community, if fear is, in fact, worse than the crime itself?"

At a seminar held at the University of Maryland's College Park Campus, Dr. Charles Wellford, Director of the university's Institute of Criminal Justice, delivered a thoughtful paper on fear of crime. It held:

—The fear of crime is not directly related to crime levels.

—The older people become, the less likely they are to be a victim; but, they become more fearful.

—Most fear of crime comes from vicarious experiences rather than from being the actual victim of crime.

That's when we ask ourselves whose job is it to attack fear and who is actually doing it. The answers are that it was *our* job and it wasn't being done.

Since we have no definable mission, and as we have in the past met crises head on because no one else was around to do it, we took it upon ourselves in Baltimore County to assume that fear is a problem to be addressed, and perhaps, the police should address it. Not knowing much about where this was going to take us, we went to work.

We created a new unit—Citizen-Oriented Police Enforcement (COPE). Its mission was to identify and reduce citizens' fear.

The term "fear of crime" is nebulous, but after interviewing hundreds of people, we learned that they were:

—Afraid to go out at night,

—Afraid to open the door when someone knocked.

—Afraid to walk past a stranger,

—Afraid to come out of the bank,

—Afraid in the grocery store parking lot,

—Afraid to leave their curtains open, and

—Afraid to call the police or to sign a complaint if they saw a crime or had a specific problem.

COPE police officers had to be carefully selected and retrained. The traditional ways had to be replaced by new, innovative approaches to problem solving.

We equipped our COPE officers with motorcycles and compact cars. These vehicles brought them closer to the people. Motorcycles and cars were to be driven slowly, stopped frequently, so officers could greet neighbors and allow youngsters to become acquainted with officers and their equipment.

"COPE is becoming more active in identifying community problems that might not ordinarily come to police attention. . . ."

Dr. Herman Goldstein, University of Wisconsin School of Law, had written a paper entitled "The Problem-Oriented Approach to Improving Police Service." He suggested that "police examine all facets of a problem and do whatever is required to restore peace to a neighborhood." Dr. Goldstein joined our retraining effort. Going beyond crime, he taught COPE to identify the causes of citizen fear and to do something about them. He believed that a new role for police might very well be that they identify all problems (in the community) that might cause fear and disruption and address them as part of their duties.

COPE began operation in July 1982. Each of 3 units is staffed with 13 police officers and 2 supervisors, for a total of 45 law officials. Placed under the jurisdiction of an area commander, they are deployed as needed. COPE officers have a great deal to say about how they are assigned. The police officers and the supervisors are required to frequently discuss what they have learned about a problem, what additional data must be developed, and what to do about it. It is new for a police officer to be at the problem identification and planning stages and then be involved in the solution. As a result of this involvement, the COPE teams have developed an esprit de corps that enhances their job performance.

Garden Village Project

On June 7, 1983, a gunfight occurred at Garden Village, a low-income, predominantly black-occupied apartment complex adjacent to the City of Baltimore. On June 18, a rape took place. Neither crime was reported to police, although one person was wounded in the shooting. Two factions had developed in the community, and they were struggling for dominance. Crime in the area was above normal, with robbery heading the list. The people in Garden Village were living in terror, and their relationship with the government had so deteriorated that they had stopped reporting crimes.

A COPE officer was assigned as project coordinator. His team conducted house-to-house problem identification surveys, which revealed:

—91 percent black residency,

—Low income,

—On the average, 3-5 years of residency,

—59 percent of residents under age 29,

—65 percent of respondents calling juvenile crime a main concern,

—Area lacking in recreational facilities,

—Lighting and alley deterioration in evidence, and

—No community leadership.

Seeing no government commitment to the area, people had a high degree of apathy toward law enforcement. The project team decided on a two-pronged approach: 1) *Community interaction*—to open lines of communication and attempt to alleviate community problems, and 2) *criminal intervention*—to gather intelligence information on all criminal activities and to coordinate this information with the patrol and detective forces in the department.

Through community interaction, data were gathered showing a need to upgrade street lighting. The COPE officer arranged meetings with the county lighting supervisor and the local utility company. Using data to show crime patterns related to lack of lighting, the COPE officer was able to convince utility officials to repair and upgrade 31 existing lights and to add 3 new mercury vapor lights.

Although the alleys were private property, COPE got the county roads department to repair the roads and alleys. COPE officers learned that the county could not afford to construct a new park facility, so they assisted the community in applying for a Federal grant through the community development coordinator's office. When the area did not meet Federal guidelines for funding, $70,000 for construction of a multipurpose (volleyball, basketball, tennis) court and tot lot was included in the 1986 county capital improvements budget. Present playground apparatus was repaired and painted, and dilapidated equipment was removed. The overall general maintenance of the park has been improved. In the meantime, COPE is helping to organize a youth group in the area.

Since crime prevention in Garden Village was nonexistent, the management of the complex willingly responded to suggestions by COPE officers. Shrubbery was trimmed, locks upgraded, vacant apartments secured, and a crime reporting system established.

The interaction group secured a meeting place for the community to meet and organize. With their guidance, the citizens have filed for a charter.

The criminal investigation officers had similar success. Gaining the confidence of the youngsters, they developed information on the burglaries and several arrests were made. High visibility patrols were established and maintained. When an arrest was made in the original shooting, friction between the two groups ceased. One community member was particularly disruptive. Learning that he was on parole, COPE officers had him returned to the penitentiary. Burglaries were reduced 80 percent; auto larceny, 100 percent.

COPE involved 11 agencies in this project. This is a far cry from the traditional police response. A forgotten neighborhood was shown that government cares, and fear was reduced accordingly.

Pioneering a New Idea

COPE is a new idea in law enforcement. It is pioneering. We had to rethink and retrain in regard to traditional police responses. Never before has fear reduction been a unit's mission. Sometimes it was a secondary accomplishment due to crime fighting or a patrol strategy. It requires identifying what people are afraid of, rather than making assumptions based on crime statistics or police know-how. Our experience shows that people are frightened for reasons the police never imagined. Also, if fear is not present in an area, COPE does not become operable.

In its first 3 years, COPE's mission—to reduce fear—has not changed. Its strategy has undergone significant refinement, however, and has achieved a uniqueness among today's policing concepts. This transition has been stimulated by COPE's training and acceptance of Dr. Goldstein's problem-oriented approach to policing. COPE has shown strong evidence of becoming more skillful in problem identification and analysis and more creative in approaching solutions to community problems.

It is devoting more time to the individual community, i.e., committing itself to fewer communities for *longer* periods of time:

—121 communities in 1983 (average of 3 weeks each),

—63 communities in 1984 (8 weeks each), and

—34 communities in 1985 (18 weeks each).

The average total hours committed to each community have tripled since the first year.

COPE is now more selective and learning to verify alleged problems and is more proficient at recognizing community problems needing its services. COPE has improved significantly in its efforts to identify underlying conditions contributing to fear/disorder and pays less attention to police perspective and more to citizen perceptions. For example, a fear elderly persons had of purse-snatching was identified and greatly reduced through education, including a 7-minute police/citizen homemade video.

COPE is becoming more active in identifying community problems that might not ordinarily come to police attention, hoping to avert disorder before it occurs. For example, in the case of a citizen threatening to shoot or kill juveniles who were harassing him, the police met with the citizen, ensuring police attention, interacted with the juveniles, changing gathering patterns, and became involved with the police public information office, to obtain media support and coverage of efforts.

To deal with panhandling, alcoholic vagrants who were causing fear among shoppers and merchants, the chamber of commerce helped with fliers asking citizens not to contribute to panhandlers in order to discourage the lifestyle. COPE helped develop and supported local ordinances to better control panhandling and obtained support of the health department and social services for a detoxification facility. The assistance of local liquor stores in controlling sales was obtained, and COPE established a dialogue with vagrants to compile personal histories, developing profiles of hard-core vagrants for court and police use.

A Final Fact

One underlying discovery, or truth, comes clear in this endeavor. If any government system, including criminal justice, is to work, support and leadership from the highest elected officials are essential. The police cannot get roads paved, shrubbery cut, panhandlers convicted, or parks cleaned without the help of other agencies. Only "the people's choice," their elected officials, have the position and power to force cooperation and coordination.

Unfortunately, not all political leaders understand this role. Therefore, the public must demand it of them. As a condition of office, this kind of leadership must become a main priority. If the police, who are on the cutting edge of community fear and discontent, discover the causes, then a mechanism—like COPE—is needed to provide the solution. This, the elected officials must realize, is the most important part of their job.

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The Nature of Police Authority

"... recognizing that in many situations officers cannot rely strictly on organizational rules and regulations to guide their actions ... [law enforcement] should develop a more-flexible model for its officers to use in their more-routine duties.

By
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Management Science Unit
FBI Academy
Quantico, VA
and
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Federal Bureau of Investigation
Washington, DC

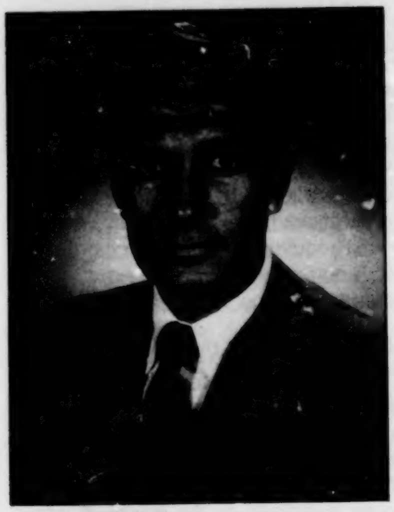
Many writers have discussed the similarities between law enforcement and the military, such as uniforms, rank structures, and insignias. Perhaps the most important similarity, however, is their authority to employ force to maintain order. In emergency situations, both require near-automatic and unquestioned acceptance of authority by their members. This kind of discipline is crucial to success in a situation that demands the use of deadly force by a police officer or a concerted attack on an enemy stronghold. As a result, law enforcement has traditionally been founded on this "military model of authority."

Yet in reality, while disciplined performance is always required in emergency law enforcement situations, such circumstances make up a very small percentage of normal policing time. Studies have shown most police officers spend the majority of their time on rather routine, administrative, and non-law enforcement duties.[1] We question, therefore, if officers should base their routine activities on the old military model. We believe law enforcement—recognizing that in many situations officers cannot rely strictly on organizational rules and regulations to guide their actions—should develop a more-flexible model for its officers to use in their more-routine duties.

Clearly, no organization can develop rules to cover every conceivable situation in which its officers might find themselves. Police administrators would be appalled if their subordinates did not exercise judgment and discretion in the performance of their duties. Most officers operate intuitively during their day-to-day activities, an approach that is largely based on each officer's previous experiences. In each new situation, officers unconsciously will ask themselves: What actions or approaches worked in similar situations in the past? They will rationally consider alternative behavior strategies before doing anything and then select that approach that has worked best. Officers rely on their judgment to handle the situation, and they use discretionary authority to resolve the situation. This whole process we describe as the discretionary model of behavior. The behavior of the officers is primarily determined by their judgment and discretion, and it is guided by their goal to resolve the situation.

With the high quality of people entering police work in recent years and with the relative rarity of emergency situations in a normal working day, law enforcement need not rely exclusively on the military model of authority to accomplish its goals. In fact, this article will suggest that the discretionary model is appropriate for many, if not most, of the situations police officers encounter.

Special Agent Witham



Special Agent Gladis

We contend that the most effective patrol officers already perform their duties using the discretionary model. Therefore, continuing to pay homage to a military model of law enforcement is misleading. Departments need to bring the discretionary activities of their members out of the closet into clear view for all to see and emulate. Such behavior is not inherently bad. As Kenneth Davis argues in his important work, *Discretionary Justice*, the problem is not with discretion in governmental activities, but with excessive discretion.[2] Davis suggests that organizations should structure discretion so it is exercised within designated boundaries. To achieve this aim, officers must first recognize the existence of discretionary behavior, then be trained in appropriate and departmentally acceptable uses of discretion.

In addition, the authors believe this discussion of different behavioral models is related to the recent debate in the literature over policing philosophy.[3] There are two basic views about the proper philosophical posture of police—to enforce the law or to maintain order. It may be that the philosophy is not to choose one or the other, but to combine the two views. The police have both a law enforcement and an order maintenance function. In the law enforcement mode, the proper approach would be to follow a military-type authority model that would ensure equitable law enforcement. In the order maintenance mode, officers should be guided by a discretionary model to resolve the situation fairly.

As law enforcement strives to be accepted as a profession, it must expect and require its officers to exercise judgment. Such behavior is the hallmark of all professionals. Therefore, this paper seeks to examine the military model and the discretionary model. Also, the authors will provide some ideas about incorporating these concepts into the training process.

A Military Model

The perception of the traditional American police authority model as a military one evolved from several influences. First, the American model evolved from a 19th century English authority-based system which was imported to the United States in 1844. In 1829, Sir Robert Peel instituted in London a police force based in part on a military model of internal discipline to respond to the failure of an undisciplined and ineffective citizen/watchman system and the violent overreaction of the military to order situations. Impressed with Peel's success, a New York delegation recommended that Peel's concepts be replicated in New York City. Thus was the birth of the military model in the United States.[4]

Second, the responsibility of deadly force that has been entrusted to the police absolutely requires strict discipline in its exercise. The strict military discipline necessarily associated with the use of firearms thus reinforces the military model daily as officers strap on their guns each day.

Third, the organization and rank structure of most traditional police departments mirror closely the military model. Departments are divided into squads and platoons and led by sergeants and lieutenants, not organized into groups and departments and headed by supervisors and managers.

"... agencies should address discretion during recruit and inservice training in order to institutionalize and legitimize its acceptable uses."

Further, police uniforms, ceremonies, and training all project a military model.

Fourth, men and women drawn to the profession hold authority-based values, an observation substantiated by Milton Rokeach in his research.[5] The impact of individually held, authority-based values on the profession is enormous, giving it a military look, philosophy, and atmosphere.

What happens when all these influences converge on law enforcement? Necessarily, officers and managers assume that a military model is relevant for all of policing. Traditionally trained officers are taught discipline and strict obedience to orders, and they will dress, act, and use the tools of the trade in a military fashion. Therefore, it is predictable that we see this military model translate into an operational authority model.

Such a military-based authority model views authority as residing with the chief executive of the organization; that is, authority that originates from and is vested solely in a central official. The lines on an organization chart from the chief to his subordinates symbolize the downward flow of authority within the organization and imply that all situations are governed by laws, rules, and prescriptions. Such a model fosters unquestioned and immediate conditioned responses to all orders.

In sum, the military model places a high premium on discipline and discourages the exercise of discretion. A necessary model in times of potential conflict and especially when the use of deadly force might be involved, it is deliberately taught to all recruits. As a consequence of this history, tradition, and training, many of today's officers tend to use a heavy authority-based (military) model for all circumstances and in all situations, regardless of its suitability.

A Discretionary Model

Black's law dictionary offers the following definition of discretion:

> "Discretion means a power of right conferred upon them by law of acting officially in certain circumstances, according to the dictates of their own judgment and conscience, uncontrolled by the judgment or conscience of others."[6]

While most types of organizations increase discretionary power with rank, law enforcement allocates such power at all levels. Low-ranking police officers routinely exercise an enormous amount of discretion in the normal course of their duties. Traffic officers can choose to issue a citation to a citizen exceeding the speed limit, arrest the individual, provide a warning, or ignore the situation entirely. Similarly, a patrol officer can follow several courses of action when responding to a family dispute. Virtually all routine calls can potentially be handled in a variety of ways—at the discretion of the individual officer.

At higher levels in the police organization, on the other hand, a number of officials routinely exercise administrative discretion; that is, "the activity of officials in which they advise, report, respond, initiate, inform, question, caution, complain, applaud, encourage, rebuke, promote, retard, and mediate in a way that has an impact upon what emerges as 'agency policy.'"[7]

In public administration literature, administrative discretion has become synonymous with the political activity of appointed officials, and the administrative discretion of police managers is quite comparable to the discretion exercised by public officials.

The general policy of discretion rests on the belief that the individual official present at a scene is best able to decide how to resolve the situation. Confidence is placed in the officer's ability to see distinctions and to act accordingly. Since any one situation can vary in any number of ways, police management must rely on the responding officer's judgment.

The professionalism of any discipline is conventionally measured by the autonomy it allows its members over certain tasks and the discretion it grants to them to insure that tasks are performed within the appropriate laws or regulations.[8] Thus, necessarily, organizations using discretionary models must require a lengthy training period to familiarize new members with the core knowledge of the discipline.

Comparisons of the Two Models

Within the discipline of law enforcement, the criterion for effective discretionary performance is the successful resolution of the problem at hand. In the discretionary model, success is defined as the minimum intrusion and use of coercion by the police. By way of contrast, performance within a military model is measured by ascertaining how closely the relevant rules and policy were followed. This letter-of-the-law mentality can lead to an over-reliance on rules and may serve to negate any skills, talent, or experience that an officer brings to the scene. The rules can take on an infallible quality often misused by many. Hence, many low-ranking bureaucrats love to play the game "Now I've got you by the rules." Worst of all, following the rules can become the desired end, not resolving potentially threatening situations with a minimum of violence or injury.

On the other hand, some situations absolutely require that all parties closely follow the appropriate rules. In law enforcement, rules must be followed exactly during the use of deadly force, the pursuit of a fleeing felon, or circumstances where coordinated action is taken by several officials. Freelancing in these matters would be inappropriate and potentially dangerous. Thus, departments must recognize that most of their sworn officers require two different sets of guidelines to discharge their duties.

Departments must give their officers firm guidelines to assist them in identifying appropriate situations for the exercise of their discretionary authority. Beyond this situational assistance, administrators must instruct their officers in acceptable discretionary behaviors. If the actions of law enforcement officers are not acceptable to the public, behavioral guidelines for officers will be imposed on the organization by some outside authority.

Whenever society becomes disenchanted with the manner in which officials exercise their discretion, it acts to remove the privilege. For example, mandatory sentencing of certain types of offenders was brought about by citizens who perceived that a number of judges were "too soft" on criminals. If discretionary powers are taken away, officials have fewer options available to them and also have their professional status lowered. Police administrators must ensure that the status of their subordinate is always enhanced, not lessened. By providing their subordinates with guidelines for acceptable discretionary behavior, they will help realize this end.

Training in Discretion

How, then, can the concept of discretionary powers be incorporated into practical departmental life? We believe that agencies should address discretion during recruit and inservice training in order to institutionalize and legitimize its acceptable uses.

Several teaching methodologies can be employed to present key discretion concepts. For example, case studies which describe actual situations, where officers relied on their experience and judgment to resolve potentially explosive situations, are excellent teaching aids. Ideally, the officers involved in the incident would participate with the training staff and the class. Additionally, case studies could be developed to highlight specific policy points regarding acceptable practices.

One of the most important training goals should be to provide officers with a clear notion of when and where to apply discretionary behavior. Guidelines and checklists can assist officers with these critical questions. Also, by clearly specifying the types of situations where discretion would be unacceptable or perhaps illegal, departments can clearly demonstrate the bounds of acceptable behavior.

Role playing provides an excellent technique to frame problems of discretion. Elements of realism and immediacy can be injected into many role-playing scenarios. Videotaping these scenarios has the added benefit of letting officers criticize their own actions. A common exclamation of officers after viewing a tape is: "I wouldn't have believed I did that unless I had seen it!"

Practical problems are also appropriate vehicles for discussing discretion. Whenever officers are required to participate physically in an exercise, they are more likely to remember the teaching objective.

In the field of management and leadership training, there are a variety of situational and contingency models that can be employed. Certainly a situational-type model could be developed to present ideas with a discretionary dimension. Possible dimensions of such a model might be order maintenance and law enforcement.

All in all, the methods by which departments discuss and teach discretion are not nearly as important as the fact that the topic is formally presented. Leaders have an obligation to their subordinates to guide and train them in their duties. Until policing openly faces the issue of discretion, it will not provide officers with the appropriate support they need.

Conclusion

Throughout this commentary, we have attempted to legitimize those activities of police officers that can be described as fitting a discretionary model. Enlightened law enforcement administrators are already well aware of the absolute necessity for their subordinates to understand and use discretion. Teaching its use, of course, makes the administrator's job more difficult and unpredictable but also more challenging. Most administrators recognize the impossibility of crafting rules which cover all exigencies. The problem for police administrators is not with discretion itself—the problem is how to structure the discretion. As a first step, we believe that all parties must recognize that discretionary behavior exists in law enforcement. Next,

"When an officer is fulfilling his law enforcement duties, he might choose the military model . . . when an officer is performing his order maintenance responsibilities, he should use the discretionary model."

the department should attempt to develop some mechanisms to instruct its officers in the acceptable uses of judgment. Training programs must begin to discuss the locker room folk wisdom and common sense that officers pick up after months, even years of experience. Methods to record and to institutionalize this human knowledge must be found, and ways to communicate the resulting techniques to the officers must be developed. Training programs that ignore this part of the work run the risk of being irrelevant to their officers.

We have suggested that both the military model and the discretionary model are relevant guides for the behavior of police officers. The problem is to decide which model is appropriate to use within any specific circumstance. Here we believe that the law enforcement order maintenance dichotomy may be helpful in providing guidance. But rather than accept the dichotomy's either/or approach, departments should integrate the two approaches. When an officer is fulfilling his law enforcement duties, he might choose the military model rules-dominated approach, particularly when his actions will be later scrutinized in a court of law. However, when an officer is performing his order maintenance responsibilities, he should use the discretionary model. Clearly, implementing these ideas will not be an easy task. They need to be implemented, however, in fairness to the professional aspirations of law enforcement, and even more importantly, to describe accurately the actions of law enforcement officers.

It is time to bring police discretion out of the departmental closet and recognize the skill, competence, and judgment of police professionals. These practitioners of the art of policing are the most important asset of effective and equitable law enforcement in this great Nation. Let us not fail to recognize their many talents. It is time to reconsider the traditional control myth implicit in a purely unconstrained military authority model view. Departments must develop mechanisms to capture the human knowledge and experience of their members. By allowing officers an opportunity to discuss how they approach various circumstances, the department can speed organizational learning and improved performance.

Footnotes

[1] J. Q. Wilson, *Varieties of Police Behavior: The Management of Law and Order in Eight Communities* (Cambridge, MA: Harvard University Press).

[2] Kenneth C. Davis, *Discretionary Justice: A Preliminary Inquiry* (Baton Rouge, LA: LSU Press, 1969), pp. 9-14.

[3] Readers interested in the philosophy of policing questions should see: Merlyn C. Moore, "The Police in Search of Direction," *Managing the Police Organization—Selected Readings*, eds. Larry K. Gains and Truett A. Ricks (St. Paul, MN: West Publishing 1978), pp. 50-72.

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[6] Henry Campbell Black, *Black's Law Dictionary*, revised fourth edition (St. Paul, MN: West Publishing, 1968), p. 553.

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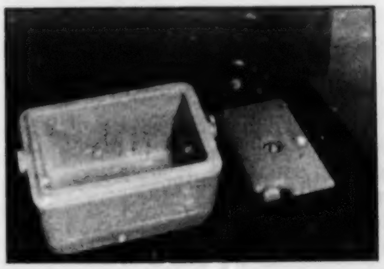
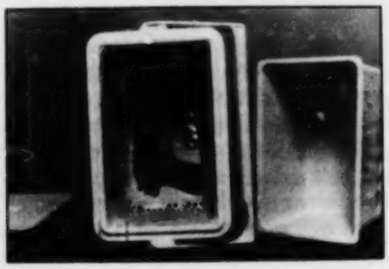
[8] Donald C. Witham, *The American Law Enforcement Chief Executive: A Management Profile* (Washington, DC: Police Executive Research Forum, 1985), pp. 26-32.

Concealed Pistol— Hand Carried Cooler

Picnic coolers with thick liners of insulating material separating the outer shell from the inner may be used to conceal items, including weapons, as illustrated here. The inner liner, used to carry food or beverages, covers the weapon when in place. This cooler was carried by an alien who was arrested by California police.

(Information furnished by U.S. Border Patrol, Fresno, CA)





Law Enforcement Career Management

Planning for Promotion

"... diverse professional training and experiences can only enhance an individual's chances for promotional success."

By
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There was a time in law enforcement when, if an officer did not cause any trouble and put in the requisite number of years on the street as a patrolman, promotion, if desired, was more or less assured. Another approach was, as one police administrator remarked, "The police officer who had the most personal influence or who was willing to pay the highest price for promotion was raised to the next highest grade."[1]

Examinations usually weren't given, and if they were, they were merely formalities. The officer with the "right connections" and enough time on the job became the new sergeant. Fortunately for the profession, things have changed considerably in the 1980's.

Today, most law enforcement agencies have established minimum requirements that must be met before an employee can be considered for promotion. These usually consist of varying combinations of length of service with the agency, advanced education, and/or some form of professional certification.

For promotion to higher ranks, other factors may be considered or specific qualifications are necessary or desired. As an example, the following is taken from an employment bulletin for the position of chief of police in Canton Township, MI, in 1985:

> "Applicant must be a police professional with command experience at the executive level. Must possess demonstrated experience as a change agent for the rehabilitation, professional development and management of a full-service department. Minimum qualifications: related college degree or equivalent experience and training ... and demonstrated management, O.D., staff and program development experience."

Clearly, these qualifications are not just "picked up" over years of experience, nor are they the subjects of instruction at police recruit academies. How, then, does a law enforcement officer increase his or her chances for advancement?

A number of researchers have suggested strategies for career advancement. In his book, *Executive Career Strategy*, Alan Schoonmaker suggests the following:[2]

1) Do excellent work,
2) Become visible within the organization,
3) Present the right image,
4) Avoid becoming deadwood,
5) Control resources, especially information, and
6) Develop good personal relationships.

To these tactics can be added three others recommended by Andrew J. Dubrin:[3]

1) Be mobile—move within the organization,
2) Help your boss succeed, and
3) Find a sponsor.

It is the intention of this article to reduce these excellent, albeit generalized, career advancement tactics into three basic concepts—education, diverse professional experience, and a proven ability to get the job done.

Lieutenant Mahoney

Education

Professionalism demands education. Career success in the 1980's requires more than just a high school diploma.

Law enforcement personnel have been attending college courses in programs specifically designed for the profession for 50 years, when the first of such courses was established at the University of California at Berkeley, CA. Since then, the number and variety of police-related college programs have expanded tremendously, especially during the late 1960's and in the early 1970's. Between 1965 and 1969, the number of criminal justice baccalaureate degree programs increased by 260 percent![4] Even more dramatic was a later report stating that from the academic year 1966–67 to the year 1975–76, criminal justice programs at all levels had risen 596 percent![5] (See table 1.)

With college-level programs available, what is there to prevent a serious promotional candidate from using them? William Shaw commented that "the idea of college-educated police officers is being pushed very hard and those who have dreams of reaching the top should keep this thought in mind."[6] Another, more recent article in a management publication that analyzed a trend toward career plateauing made the point that "we have the largest population of educated and qualified people competing for positions in our history."[7]

There is also another potential benefit from obtaining a college education. It has been suggested that increased levels of education are associated with greater job satisfaction and personal involvement with the job. Sanderson reported that officers who attended college used less sick/injured days, performed better at the training academy, and received fewer citizens' complaints.[8]

Diversification of Experience

As a potential supervisor or manager in a law enforcement organization, the well-rounded individual is always more attractive to police administrators than the one who has spent an entire career as a patrol officer. The complexities of the job demand that supervisors and managers possess a wide body of knowledge and experience to draw from in order to be successful.

For promotional aspirants, movement within the organization is highly desirable. Experience across the functional lines of an organization, for example, will assist the candidate in developing the variety of skills that will later be needed as a supervisor and manager. Experience at the different geographical locations of an organization (for larger law enforcement agencies) will also foster an understanding of the organization as a whole and may bring the individual to

Table 1

Change in Number of Degree Programs in Law Enforcement and Criminal Justice 1966–67 to 1975–76

Years	*Associate*	*Baccalaureate*
1966–67	152	39
1968–69	199	44
1970–71	257	55
1972–73	505	211
1975–76	729	376

Source:
John DeDoux, et al., "Higher Education for Law Enforcement: Half a Century of Growth," The Police Chief, *April 1984, p. 22.*

"'... high performance and work excellence are the basic foundation of a career strategy.'"

Elwin E. Cooke
Chief of Police

the attention of those at the executive level.

Obviously, the size of any given agency may tend to either aid or hinder a promotional candidate's efforts in seeking job diversification. A large agency, such as the Los Angeles Police Department, has literally hundreds of specialized assignments, while other, much smaller departments may have none.

Most medium-sized departments and many smaller ones, however, have some form of specialized assignments such as detective, traffic enforcement, and narcotics. Other specialized jobs that may present themselves to the potential supervisor are personnel and training, community relations, internal affairs, the academy instruction staff, and budget preparation.

The main point is that diverse professional training and experiences can only enhance an individual's chances for promotional success. In his article in *The Police Chief*, Edward Tully said:

> "Common sense indicates that just as a patrolman needs training prior to assignment to the street, so also should sergeants, captains, and even chiefs of police receive training prior to their elevation to higher positions within the organization."[9]

Proven Ability

A college degree and a variety of professional assignments are just the foundation for a motivated individual with a record of success and accomplishments. As a general rule, the better an individual's work performance, the greater the individual's chances for organizational rewards such as a promotion. In fact, in his *Management* textbook, James Stoner stated quite emphatically, "There can be little question that high performance and work excellence are the basic foundation of a career strategy."[10]

This feeling was echoed by Reeser and Loper in their analysis of the requirements for top management positions when they commented, "The criterion for consideration of individuals for top management posts is almost always singularly impressive performance in middle-management."[11]

In almost any given organization, professional recognition is an end product to the completion of outstanding work. If this is not the case, the promotional candidate might seriously consider moving to a different organization for the completion of his or her career goals.

This professional recognition may come in the form of written or oral commendations, professional recognition awards, merit pay increases, or possibly, selection for assignment to specialized joint functions within the organization. In any event, after first savoring this recognition as validation of excellent efforts an individual should then take the time to carefully document it in the form of a resumé for presentation in the promotional process.

A resumé is a neat, thorough compilation of an individual's professional capabilities. In effect, it is a statement of an individual's education, experience, and proven ability.

Conclusion

Promotional advancement in law enforcement clearly is no longer a matter of political pull, monetary inducement, or just plain "luck." It is estimated that there are approximately 30,000 police officers in the United States occupying positions ranging from first-line supervisor to chief of police.[12] The competition for these positions continues to get tougher.

Career police professionals must accept the fact that promotions must be sought after and won; the successful candidate for promotion is aggressive in his pursuit, thorough in his preparation, and confident in his execution.

While organizations can help individuals manage and develop their careers, career management is ultimately the individual's own responsibility. Conscious career management by the individual can have many advantages; individuals who plan for what they want to achieve are more likely to achieve their goals than those who stumble about trusting to fate. They can focus their energies on the career

"... career management is ultimately the individual's own responsibility.

goals that they have selected, rather than just drifting within their organization or occupation. In addition, they are less vulnerable to chance events and to have undesirable career decisions made for them by others. Finally, individuals who are competent in managing their own careers and who have well-defined goals and plans for reaching them tend to be somewhat more motivated and purposeful; they are more useful in their organizations and more likely to be successful within them.

Success in law enforcement is no longer a matter of chance. In fact, Ralph Waldo Emerson once said: "Shallow men believe in luck." In today's modern, constantly changing world of the law enforcement professional, the supervisory and management ranks are being filled with fewer and fewer shallow men.

Footnotes

[1] Leonard Fuld, *Police Administration: A Critical Study of Police Organizations in the U.S. and Abroad* (New York: G. Putnam & Sons, 1909), p. 425.

[2] Alan N. Schoonmaker, *Executive Career Strategy* (New York: American Management Association, 1971).

[3] Andrew J. Dubrin, *Fundamentals of Organizational Behavior* (New York: Pergamon Press, 1974), pp. 147–158.

[4] C.A. Tracy, "Survey of Criminal Justice Subject Matter Baccalaureate Programs," *Journal of Criminal Law, Criminology and Police Science*, vol. 61, 1970, pp. 576–579.

[5] R. Adams, "Criminal Justice: An Emerging Academic Profession and Discipline," *Journal of Applied Psychology*, vol. 4, 1976, pp. 303–314.

[6] William Shaw, "Police Education in the 80's," *Law and Order*, March 1980, p. 6.

[7] Judith M. Bardwich, Ph.D. "Plateaued: What if You've Stopped Climbing the Corporate Leader?" *SPD Management*, vol. 4, No. 1, 1985, p. 7.

[8] B.E. Sanderson, "Police Officers: The Relationship of College Education to Job Performance," *The Police Chief*, vol. 44 (1977) pp. 62–63.

[9] Edward J. Tully, "The Challenge of Police Education During the 1980's," *The Police Chief*, September 1980, p. 41.

[10] James A.F. Stoner, *Management* (Englewood Cliffs: Prentice Hall, 1978), p. 548.

[11] Clayton Reeser and Marvin Loper, *Management: The Key to Organizational Effectiveness* (Palo Alto, CA: Scott, Foresman & Co., 1978), p. 259.

[12] Supra note 9.

1986 Preliminary Officer-Killed Statistics

Preliminary Uniform Crime Reporting (UCR) statistics showed a decrease in felonious line-of-duty deaths in the first 6 months of 1986 as compared to the previous year. There were 42 law enforcement officers slain between January 1 and June 30 in the United States and its territories, whereas 47 officers were feloniously killed during the same period of 1985. Law enforcement agencies have cleared 40 of the 42 slayings.

The firearms used in 40 of the officer killings this year included handguns (32), rifles (6), and shotguns (2). The remaining 2 victims were intentionally struck with vehicles.

Geographically, 20 officers were slain in the Southern States, 9 in the Western States, 6 in the Midwestern States, 5 in the Northeastern States, and 2 in Puerto Rico. Twenty-one of the victims were city police, and 14 were county officers. Three were employed by Federal agencies, 2 by State agencies, and 2 by agencies in the U.S. territories.

Fourteen of the 42 victims were attempting to apprehend or arrest suspects when slain. Of these victims, 6 were attempting to thwart robberies or were in pursuit of robbery suspects; 4 were involved in drug-related situations; 1 was attempting to arrest a burglary suspect; and 3 were attempting arrests for other crimes.

Seven officers were killed while enforcing traffic laws; 6 upon answering disturbance calls; 5 while investigating suspicious persons or circumstances; and 4 while handling or transporting prisoners. Four officers were ambushed, and 2 were dealing with mentally deranged individuals when killed.

Urinalysis Drug Testing Programs for Law Enforcement

(Part II)

"... a law enforcement department could choose to start its urinalysis drug testing program by requiring all applicants for the position of sworn officer to submit to a urinalysis drug test."

By
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FBI Academy
Legal Counsel Division
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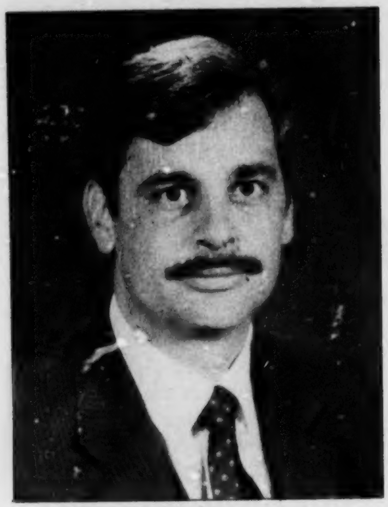
Part I of this article began a discussion of the balancing test required to determine whether mandatory urinalysis drug testing was reasonable under fourth amendment standards. It noted that the right to privacy, protected by the fourth amendment, generally precludes warrantless searches unless the government has superior interests in conducting a search. In terms of drug testing of police, the right of privacy of an individual officer must be outweighed by a legitimate governmental interest(s), if it is to be legal. The right of privacy must be balanced against the need to protect public safety, preserve public trust and integrity, prevent corruption, present credible testimony, insure employee morale and safety, maintain productivity, and forestall civil liability.

However, in determining whether drug testing is legally permitted, those competing interests must be analyzed and weighed in the specific context in which drug testing would be used. This part of the article will examine the legality of a urinalysis drug testing program which might require testing at various events or occasions. The concluding part of the article will discuss the legal issues which must be addressed and resolved once drug testing is implemented and close with a proposed model analysis for law enforcement agencies and departments which choose to adopt a urinalysis drug testing program.

WHEN A URINALYSIS DRUG TEST MIGHT BE REQUIRED

The fourth amendment's balancing test for reasonableness in the adoption of a urinalysis drug testing program requires a determination of whether the governmental interests in favor of urinalysis outweigh the privacy interests of the individual in the specific context of the situations which will trigger the demand for urinalysis drug testing. Law enforcement agencies may seek to implement drug testing in a variety of situations. They include: 1) Application for employment, 2) training and probationary status, 3) scheduled medical examinations, 4) change of assignment, or 5) observable conduct or behavior. In addition, an agency may believe it necessary to engage in drug testing on a completely random, unannounced basis as a safeguard against drug abuse and as a protection of its ability to accomplish its mandated responsibilities. Each of these situations will be analyzed to determine if urinalysis drug testing would lawfully be permitted as a reasonable search under the fourth amendment.

Law enforcement officers of other than Federal jurisdiction who are interested in any legal issue discussed in this article should consult their legal adviser. Some police procedures ruled permissible under Federal constitutional law are of questionable legality under State law or are not permitted at all.



Special Agent Higginbotham

Testing Applicants

The special role of law enforcement in our society confers enormous powers and responsibilities upon those persons who are chosen to serve as law enforcement officers and officials. The powers to make arrests and conduct searches are, perhaps, the most intrusive of all governmental activities into the private affairs of citizens. But with that enormous power must also come equal responsibility. Law enforcement must carefully select its officers, choosing only those persons who will exercise the powers granted to them with unfailing consistency to standards set forth by the Constitution and the laws of the States. It can be strongly argued that persons who are drug abusers fall outside the category of people to whom we should entrust those powers. For many of the reasons discussed earlier, e.g., public safety, public trust, preventing corruption, presentation of credible testimony, officer safety, and effective police work, drug abusers should be detected and disqualified from entering the field of law enforcement. Urinalysis drug testing of law enforcement applicants is one method of furthering the objective of necessarily selective hiring.

Such a position appears to be legally defensible. Required submission to a urinalysis drug test by a law enforcement applicant would find support in any of three legal theories. First, if urinalysis were made a condition of the employment application process, submission to the testing would become voluntary and consensual. It would force self-selection by causing drug abusers to forego employment application because they would know their drug abuse would be detected. This would leave only those applicants who voluntarily agree to the testing procedures. Second, most law enforcement agencies require an applicant to submit to a complete medical examination before a final hiring decision is made. Providing a urine sample for routine medical testing and screening is a normal part of such physical examinations. Having provided that urine sample for medical purposes and examination, no privacy interest remains which would preclude analyzing the urine for the presence of illegal drugs as well. Third, it could easily be argued that the government's interests, outlined earlier, in removing candidates from the applicant process who are unqualified by reason of current or recent drug abuse is simply superior to the privacy interest of the individual, particularly where the test is relatively unobtrusive.

The few court cases where this issue has arisen have uniformly concluded that drug testing of law enforcement applicants through urinalysis is lawful. As the trial court in *City of Palm Bay* v. *Bauman*[39] noted:

> "Certainly, municipal police and firefighters must expect to meet required minimum standards of physical condition in order to be hired and retained. Physical examinations conducted to insure that those standards are met are to be reasonably expected even though urine testing is a part of those examinations."[40]

Similarly, the U.S. District Court in Iowa noted that:

> "The Fourth Amendment . . . does not preclude taking a body fluid specimen as part of a preemployment physical examination. . . ."[41]

Accordingly, it appears a law enforcement department could properly choose to start its urinalysis drug

"... a comprehensive urinalysis drug testing policy should provide for mandatory testing when warranted by certain actions, conduct, or behavior observed in a law enforcement officer."

testing program by requiring all applicants for the position of sworn officer to submit to a urinalysis drug test.[42]

Testing Trainees and Probationary Officers

The second situation when drug testing may be considered is during training and/or probationary periods. Though there is no reported case law directly on this issue, the same rationale which has generally supported drug testing of applicants could be advanced to support drug testing of law enforcement trainees and probationary officers. The training and probationary periods of a law enforcement career should be viewed as an extension of the application process. The goal in hiring new law enforcement officers is to select persons who are both qualified and able to perform the duties and responsibilities to which they will be assigned. The application process identifies those persons who are qualified to serve as law enforcement officers. The training and probationary periods identify those individuals who are capable of completely fulfilling those duties and who are deserving of retention as tenured, career officers. Drug testing of urine may be an appropriate way to accomplish that goal.

Testing at Regularly Scheduled Physical Examinations

A third part of a urinalysis drug testing program could lawfully require a law enforcement officer to submit to drug testing as part of a regularly scheduled physical examination. Drug testing of urine as part of regularly scheduled physical examinations can be viewed as an extension of the urine testing done for other medical purposes. Routine "(p)hysical examinations ... by medical personnel are common occurrences. We are subjected to them in the armed services, before getting married, and as a requirement to gaining access to many schools and jobs. Sound medical counseling dictates that we voluntarily undergo periodic medical checkups."[43] And, as noted in *McDonell* v. *Hunter*:[44]

> "One does not reasonably expect to discharge urine under circumstances making it available to others to collect and analyze in order to discover the personal physiological secrets it holds, *except as part of a medical examination.*"[45]

Of course, it can readily be seen that drug testing of urine as part of a routine medical examination may not be a particularly effective way of detecting and deterring drug abusers. Notice or knowledge of a regularly scheduled physical examination may allow a drug abuser to refrain from the abuse of drugs for a period of time prior to the examination sufficient to purge his/her system of drug residue, thereby avoiding detection. Nonetheless, drug testing as a part of a medical examination would be legally permissible.

Testing at Change of Assignment

A fourth instance in which urinalysis drug testing might be considered is in connection with a law enforcement officer's or official's change of assignment.

With regard to a change of assignment not involving a promotion, the critical factor in determining the legality of a mandatory urinalysis drug screen is probably the nature of the new assignment. If the reassignment cannot reasonably be expected to increase the risks or adverse consequences of drug abuse, drug testing based solely on a change of assignment raises difficult legal issues. However, where the change of assignment requires an officer to become more closely associated with narcotics investigations or criminals associated with illegal drugs, a strong argument can be made that it is imperative the reassigned officer be determined to be free from the abuse and the inclination to abuse drugs, as well as the influence or association with persons known to be criminally involved with drugs. Although there are only a few decided cases supporting this type of drug testing,[46] a forceful legal argument can be made by a law enforcement agency which can articulate the specific need which requires newly reassigned narcotics or vice officers to be and remain drug-free.

A similar argument might be made for testing as a condition of promotion. To the extent that consent might not be viewed as sufficient authority to require drug testing of urine before receipt of a promotion, a law enforcement department could reasonably argue that concomitant with the prestige of promotion is the responsibility to be a model representative of the organization. Damage to pubic trust, poor policy and decisionmaking, and lower morale are the unfortunate byproducts of drug abuse at high levels of a law enforcement organization.

Accordingly, a department might argue that drug testing is needed to insure that only the most competent law enforcement officers receive positions of greater trust and responsibility, urinalysis drug testing is necessary. Again, there is no reported case law on this type of drug testing,[47] but it is believed a well-reasoned and articulated policy requiring drug testing as a condition of promotion could survive a legal challenge.

"... the drug testing program should clearly state that it is applicable to every officer.

Testing Warranted by Actions, Conduct, or Behavior

The discussions thus far of the situations of law enforcement officers which would justify the actual drug testings have focused on specific occasions, unaffected by performance or behavior. However, a comprehensive urinalysis drug testing policy should provide for mandatory testing when warranted by certain actions, conduct, or behavior observed in a law enforcement officer. The analysis of the legality of such behavior-oriented drug testing can be divided into two subcategories: 1) A serious incident of on-duty conduct and 2) observed behavior which has not caused any specific incident but provides some level of suspicion of drug abuse.

As noted at the outset of this article, in excess of 50 railroad accidents have been attributed to drug or alcohol impairment. Is there a parallel to law enforcement situations? May urinalysis drug testing be ordered in any instance in which a law enforcement officer was involved in a serious automobile accident, shooting incident, or similar mishap? One case, though not a law enforcement case, suggests that the answer is yes.

In *Division 241 Amalgamated Transit Union (AFL-CIO)* v. *Suscy*,[49] the Chicago Transit Authority required submission to a urinalysis drug screen for all employees involved in serious accidents. In upholding the legality of that "serious accident" policy, the court stated:

> "... the Chicago Transit Authority has a paramount interest in protecting the public by insuring that bus and train operators are fit to perform their jobs. In view of this interest, members of plaintiff Union can have no reasonable expectation of privacy with regard to submitting to blood and urine tests. "Certainly the public interest in the safety of mass transit riders outweighs any individual interest in refusing to disclose physical evidence of intoxication or drug abuse...."[50]

There is little, if any, difference between a court's concern for the safety of mass transit riders and the physical safety of persons in the community served by law enforcement officers. In both cases, drug abuse poses a real and measurable threat to the safety of those persons sufficient to warrant urinalysis drug testing following involvement in a serious accident or incident. If drug abuse by a law enforcement officer causes or contributes to a serious incident or accident, it must be detected to prevent its recurrence. Therefore, a department may wish to consider including a "serious incident" provision as part of a comprehensive drug testing program.

Situations may also arise where no serious accident or mishap has occurred, but a law enforcement officer exhibits certain behavior which is suspicious or indicative of drug abuse. When such behavior can be articulated and reaches the level of "reasonable suspicion," courts will permit a law enforcement agency to require participation in urinalysis drug testing. In three law enforcement cases decided to date, the courts have upheld the right of the law enforcement agency to engage in urinalysis drug testing based on reasonable suspicion.[51] In this context, reasonable suspicion requires that the testing must be predicated "only on the basis of ... objective facts and the reasonable inference drawn from those facts...."[52] Based on reasonable suspicion, urinalysis drug testing is lawful "(b)ecause of the clear public interest ensuring that the police force operates free of narcotics...."[53]

Certain limitations on "reasonable suspicion" drug testing of urine, should be considered, however. For example, in *McDonell* v. *Hunter*,[54] the court held that reasonable suspicion testing would be lawful only if: 1) The articulable facts constituting reasonable suspicion were reduced to writing and made a part of an official record, 2) the facts were disclosed to the employee at the time of testing, and 3) the decision to require submission to drug testing were made by a high-level law enforcement official within the department. These limitations were designed to minimize the chance for arbitrary or capricious selection of persons to be tested, and a department should be well-advised to consider these or similar safeguards.

Unannounced Random Testing

The situations discussed thus far, under which a law enforcement agency might seek to engage in drug testing, have all been based on certain occasions, occurrences, or behavior. Yet, if the purpose of a urinalysis drug testing program is to both detect and deter drug abuse in law enforcement, testing only at application, during training or probation, at medical examinations, upon change of assignment, or as a result of some type of conduct may not be completely adequate. If an officer stays drug-free through application, training, probationary and medical examination periods; does not seek reassignment or promotion; does not become involved in any serious incidents; or does not exhibit behavior creating a reasonable suspicion of drug abuse, that officer's drug abuse could go undetected and largely undeterred. The solution to that possibility and probably the most effective method to deter and detect drug abuse is through unannounced random testing.

The legal problem posed by unannounced random testing is that it conceivable permits arbitrary "searches," which the courts have long disdained. In *Delaware* v. *Prouse*,[55] the Supreme Court ruled that stopping motorists for driver's license inspections, without any factual indication the person was improperly licensed, and without any standard or safeguard against an arbitrary exercise of discretion, is an unconstitutional practice. The analogy to unannounced drug testing is obvious.

Are drug testing policies which permit mandatory urinalysis not based on any specific event or factual basis constitutional? This is clearly the most controversial aspect of urinalysis drug testing. It evokes strong sentiments from officers who often view it as management's belief that they are guilty of illegal drug abuse until they prove themselves innocent through urinalysis drug testing. Predictably, unannounced random drug testing has spawned much litigation and poses some very difficult and close legal issues.

Three law enforcement agency cases have been decided where policies which included unannounced random testing were involved.[56] In all three cases, the courts have found the policies, as drafted, were unconstitutional. The court's difficulty with such testing was summarized by the trial court in *City of Palm Bay* v. *Bauman*:

> "Without a scintilla of suspicion directed toward them, many dedicated firefighters and police officers are told, in effect, to submit to such testing and prove themselves innocent, or suffer disciplinary action. When the immediate end sought is weighed against the private right affected, the proposed search and seizure is constitutionally unreasonable."[57]

Can unannounced random testing be legal? One cannot accurately predict whether future litigation will be more successful if a law enforcement agency desires to include unannounced random testing as part of its urinalysis drug testing program. However, there are certain features which, if included in the program, will at least increase the likelihood of success.

First, the drug testing program should clearly state that it is applicable to every officer. A court must be convinced that the drug testing program will either test all officers or subject all officers to an equal risk of drug testing. It is, in essence, a universal testing program designed to deter drug use generally and not aimed at any specific individual or group of officers.

The second feature essential to a legally defensible unannounced testing program requires the removal of the "unconstrained exercise of discretion"[58] from the selection process. It would do no good to adopt a universal testing policy only to have it undermined by arbitrary selection of persons to be tested. Truly random selection models can be done mathematically or be generated by computer. Regardless of the method chosen to randomly select officers to be tested, it must "not grant the Department carte blanche to order testing on a purely subjective basis."[59]

The third suggested feature, though not imperative, as a constraint on the universal testing-random selection drug testing program is a limit on the number of times that any individual officer can be selected for testing over a given period of time. Though no court has directly required such a limit, mandatory submission to urinalysis drug testing, even randomly, several times within a short period of time increases the risk that a court could find the testing program to be overly intrusive or unfair.[60] The negative aspect of this feature is the loss of deterrent value. An officer who is tested the maximum number of times early in the given time period then knows he/she will not be tested again for a considerable period of time.

The fourth suggested feature for an unannounced random drug testing program is to establish the need. A department which has a known problem of drug abuse and can document the adverse impact it has brought upon the department can offer a strong argument that unannounced random drug testing is needed to halt existing drug abuse and deter further illegal drug use by its officers. But a department should not be required to allow drug abuse to plague its operations before it acts to prevent its adverse consequences. Even in the absence of a known or widespread problem of drug abuse, a law enforcement agency can make a strong argument that the deterrent benefits of a drug testing program in terms of integrity and public trust and effective law enforcement operations are sufficient to make the drug testing program legal. This would appear to be particularly true of agencies with unique missions and responsibilities, such as narcotics law enforcement or national security. Where drug abuse can be shown to be totally inimical to the specifically mandated or statutory responsibilities of an agency, unannounced random testing is an arguably appropriate agency response.

"... a universal pool of potential officers subject to testing and selected by a purely randoom method ... could convince a court that such testing procedures for law enforcement are reasonable and lawful."

There is only one case in which a universal testing-random selection model was upheld. In *Shoemaker* v. *Handel*,[61] the New Jersey State Racing Commission required that all jockeys participating in horse races would be tested for drug abuse through urinalysis based on a random selection. Each day, the names of all the jockeys racing were placed in an envelope. Three to five names of jockeys were drawn on a purely random basis and those jockeys were then required to provide a urine sample at the conclusion of the race day. In upholding that policy, the court stated:

> "The fair characterization of those tests is that they were administered neutrally, with procedural safeguards substituting for the lack of any individualized suspicion ... Further, every jockey participating in racing on a given evening has an equal chance of being selected to give a urine sample under the name drawing system.
>
> "There is considerable evidence that a testing approach which requires some element of individualized suspicion would actually *increase* the ability of a steward to act in an arbitrary and unreasonable manner. . . ."[62]

The governmental interests in regulating the horse racing industry and the governmental interests in regulating law enforcement officers' conduct are certainly not identical, and therefore, *Shoemaker* cannot be read as absolute authority to conduct universal testing-random selection programs. However, it highlights the point made by the Supreme Court in *Delaware* v. *Prouse*,[63] that certain searches and seizures may be reasonable even in the absence of individualized suspicion if "other safeguards ... assure that the individual's reasonable expectation of privacy is not subject to the discretion of the official in the field."[64] The safeguards discussed above, a universal pool of potential officers subject to testing, selection by a purely random method and protection against overly frequent urinalysis, coupled with a specialized need to combat drug abuse within a department, could convince a court that such testing procedures for law enforcement are reasonable and lawful.

(To be continued)

Footnotes

[42] The discussion in this article of fourth amendment reasonableness as it governs urinalysis drug testing is confined to drug testing for sworn personnel. This is not to suggest that civilian or support law enforcement employees could not or should not be similarly tested. However, the balancing test for reasonableness involves somewhat different factors for nonsworn personnel who, for example, do not generally carry weapons or testify in court. In addition, the paucity of case law, coupled with the many varied duties to which nonsworn personnel are assigned, makes even broad generalizations regarding the legality of such drug testing virtually impossible. The few court decisions regarding urinalysis drug testing outside the law enforcement arena highlight the point that the balancing test for fourth amendment legality is markedly different. *See, e.g., Jones* v. *McKenzie*, 628 F.Supp. 1500 (D.D.C. 1986) (urinalysis drug testing of school bus attendant permitted only on probable cause).

[43] *U.S. ex rel Guy* v. *McCauley*, 385 F.Supp. 193, 199 (E.D. Wisconsin 1974).

[44] *Supra* note 41. *See also, City of Palm Bay* v. *Bauman*, 475 So. 2d 1322, 1323 (Fla. App. 5th Dist. 1985) (dictum).

[45] 612 F.Supp. at 1127 (emphasis added).

[46] There are no reported decisions on this point. However, Mr. Richard J. Koehler, Chief of Personnel, New York City Police Department, in his abstract, "Drug and Narcotic Screening of Police Personnel," October 1985, quotes an unreported decision of the Seventh Circuit Court of Appeals, *Harris* v. *Washington*, No. 84C 8812, which upheld such testing, as follows: "... drug screening appears to be part of the department's method for ensuring that officers who have been temporarily away from active service or who are about to undertake new duties are fit to perform their jobs." *See also, Caruso* v. *Ward*, N.Y. Sup. Ct., N.Y. Cty, No. 12632-86, July 1, 1986, where a trial court enjoined the New York City Police Department's policy requiring surprise testing of the 1,200 officers assigned to the Organized Crime Control Bureau, whose duties include undercover narcotics enforcement, but sustained the use of drug testing as a prerequisite to assignment to that bureau.

[47] The language quoted from *Harris* v. *Washington* in note 46, *supra*, would also support promotion-based drug testing. *But compare, Application of Patchogue-Medford Congress of Teachers* v. *Board of Education of Patchogue-Medford Union Free School District*, reported in the January/February 1986, newsletter, "Of Substance," Legal Action Center of the City of New York, Inc., New York, NY. (Urine drug testing as requirement of promotion to tenured teaching position violates fourth amendment).

[48] *See* note 2.

[49] 538 F.2d 1264 (7th Cir.), *cert. denied*, 429 U.S. 1029 (1976).

[50] *Id.* at 1267.

[51] *Turner* v. *Fraternal Order of Police*, 500 A.2d 1005 (D.C. App. 1985); *City of Palm Bay* v. *Bauman*, 475 So.2d 1322 (Fla. App. 5th Dist. 1985); *McDonell* v. *Hunter*, 612 F.Supp. 1122 (D. Iowa 1985).

[52] *McDonell* v. *Hunter, supra* note 51, at 1130.

[53] *Turner* v. *Fraternal Order of Police, supra* note 51, at 1009.

[54] *Supra* note 51. *See also, Division 241 Amalgamated Transit Union (AFL-CIO)* v. *Suscy*, 538 F.2d 1264, 1267 (7th Cir. 1976).

[55] 440 U.S. 648 (1979).

[56] *City of Palm Bay* v. *Bauman*, 475 So. 2d 1322 (Fla. App. 5th Dist. 1983); *McDonell* v. *Hunter*, 612 F. Supp. 1122 (D. Iowa 1985); *Caruso* v. *Ward, supra* note 46.

[57] 475 So. 2d at 1325. (Appellate court's quote of trial court's ruling.)

[58] *Delaware* v. *Prouse, supra* note 55 at 663.

[59] *Turner* v. *Fraternal Order of Police, supra* note 55, at 1008.

[60] For example, in *Shoemaker* v. *Handel*, 619 F. Supp. 1089 (D. New Jersey 1985), *aff'd* ___ F.2d ___ (3d Cir. 1986), the trial court noted that the drug testing program required that if a horse racing jockey were randomly selected for drug testing more than three times within 7 days, the selection was to be disregarded. That finding apparently contributed to the court's ultimate ruling that the testing procedures employed there were not unconstitutional.

[61] *Supra* note 60.

[62] *Id.* at 1103.

[63] *Supra* note 55.

[64] 440 U.S. at 655.

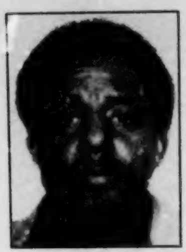
[65] *Caruso* v. *Ward; supra* note 46, slip op. at 6.

[66] *See I.N.S.* v. *Delgado*, 104 S.Ct. 1758, 1763 (1984) ("[o]rdinarily, when people are at work their freedom to move about has been restricted, not by the actions of law enforcement officials, but by the workers' voluntary obligations to their employers").

WANTED BY THE FBI

Any person having information which might assist in locating these fugitives is requested to notify immediately the Director of the Federal Bureau of Investigation, U.S. Department of Justice, Washington, DC 20535, or the Special Agent in Charge of the nearest FBI field office, the telephone number of which appears on the first page of most local directories.

Because of the time factor in printing the FBI Law Enforcement Bulletin, there is the possibility that these fugitives have already been apprehended. The nearest office of the FBI will have current information on these fugitives' status.



Photograph taken 1975

Willie Joe Daniel,

also known as Joe Daniel, W.J. Daniel, William Joe Daniell, Joe Daniels, Willie Joe Daniels.

N; born 2-9-33, Kerens, TX (not supported by birth records); 5'9" to 5'10"; 180-191 lbs; med bld; blk hair; brn eyes; drk comp; occ-butcher, laborer, meat packer, mechanic, musician, packing room foreman;

scars and marks: scar on forehead, surgical scar on inner right wrist, two hernia scars; removable lower left tooth;

remarks: plays guitar and saxophone.

Wanted by FBI for INTERSTATE FLIGHT-MURDER, ATTEMPTED MURDER.

NCIC Classification:

PMPOPMPOPOPOPIPM2017

Fingerprint Classification:

$$\frac{\text{20 M 31 W O MO}}{\text{O 31 W I MO}}\ 17$$

I.O. 4889

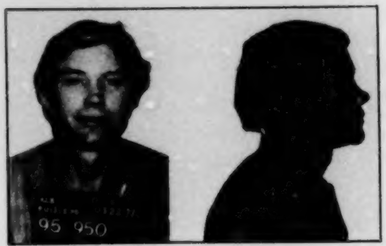
Social Security
Number Used: 464-40-8165

FBI No. 583 718 B

Caution

Daniel, a reported drug user, is being sought in connnection with the shooting murders of two of his children and the attempted murder of two others. Consider Daniel armed and dangerous.

Right little fingerprint



Photographs taken 1977

Bill Clara Killingsworth,

also known as Bill Killingsworth, Bill Clare Killingsworth, Billy Clair Killingsworth.

W; born 10-18-34, San Perlita, TX; 5'9"; 155 lbs; med bld; brn hair; bl eyes; fair comp; occ-buyer, clerk, material investigator, production controller, storekeeper, superintendent of retirement home; scars and marks: scar on chin.

Wanted by FBI for INTERSTATE FLIGHT-KIDNAPING, SEXUAL ASSAULT, ESCAPE.

NCIC Classification:

PO0914PO17161216DI16

Fingerprint Classification:

$$\frac{\text{9 O 9 U IOO 17}}{\text{M 18 U OOI}} \quad \text{Ref:} \quad \frac{\text{9 25 25}}{\text{17 17 18}}$$

I.O. 4890

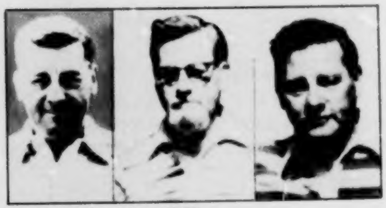
Social Security
Numbers Used: 490-32-8849; 490-32-8949

FBI No. 819 043 P5

Caution

Killingsworth is being sought as an escapee from the New Mexico State Penitentiary where he was serving a life sentence for kidnaping and sexual assault. Killingsworth, a reported narcotics user, should be considered armed, dangerous, and an escape risk.

Right thumbprint



Photographs taken 1979

Joseph Michael Florczak,

also known as Jim Domin, Joe M. Domin, Harvey Emerson, Raul Ozuna Gil, Raul O. Gill, C. Harker, J. Harker, David Lee Harris, Daniel Higdon, Joe Jimenez, Joe Jiminez, Reyes J. Jimenez, Reyes J. Jiminez, Henry Warren Johnson, Craig S. Ronson.

W; born 4-7-26; New Britian, CT; 5'10"; 165 lbs; med bld; brn hair (known to wear beard and/or mustache); blue eyes; ruddy comp; remarks: prefers rural areas.

Wanted by FBI for INTERSTATE FLIGHT-MURDER.

NCIC Classification:

AA71AA1903AAAA041607

Fingerprint Classification

$$\frac{\text{21 1 aRa 3}}{\text{1 aA}}$$

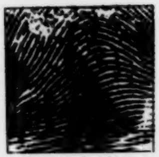
I.O. 4901

Social Security
Number Used: 049–16–3947

FBI No. 651 259 L5

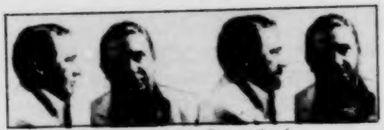
Caution

Florczak is being sought in connection with the stabbing death of his ex-wife. He is also wanted by local authorities for armed robbery with a handgun. Consider Florczak armed and dangerous.



Left thumbprint

WANTED BY THE FBI



Photographs taken 1979, Retouched

Alphonse Carmine Persico,
also known as A. Persico, Alphonse Persico, Alphonso Persico, Alley Boy Persico, Alley Boy, Allie Boy Persico, Allie Boy, Al, Ally Boy.
W; born 12-6-29, Brooklyn, NY; 6′–6′2″; 215 lbs; hvy bld; blk-gray hair; brn eyes; olive comp; occ-carpet layer, legal clerk, president of carpet installation firm, security consultant;
scars and marks: burn scar on left cheek; tattoo: "AL" on right hand between thumb and forefinger;
remarks: allegedly wears his hair short with a permanent and may be wearing full beard and mustache.
Wanted by FBI for EXTORTIONATE CREDIT TRANSACTIONS-BOND DEFAULT.

NCIC Classification:
166313CO05PI61141613

Fingerprint Classification:

$$\frac{\text{16 M 13 R OOO 5}}{\text{I 1 R OOO}} \quad \text{Ref:} \quad \frac{13}{2}$$

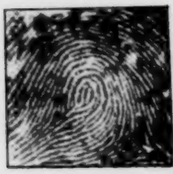
I.O. 4875

Social Security
Number Used: 072-22-1415

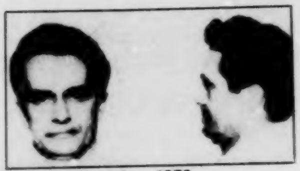
FBI No. 263 729 A

Caution

Persico, a convicted murderer and reputed underboss of an organized crime family in Brooklyn, NY, is being sought for failure to appear after being convicted on multicounts of an indictment charging violation of the extortionate credit transaction law. Persico has been known to carry a weapon in the past and should be considered armed and dangerous.



Right index fingerprint



Photographs taken 1979

Donald Eugene Webb,
also known as A.D. Baker, Donald Eugene Perkins (True Name), Donald Eugene Pierce, Stanley J. Pierce, John S. Portas, Stanley John Portas, Donald E. Webb, Eugene Donald Webb, Stanley Webb, Wilfred Y. Reams, and others.
W; born 7-14-31, Oklahoma City, OK; 5′9″, 165 lbs; med bld; gray-brn hair; brn eyes; med comp; occ-butcher, car salesman, jewelry salesman, real estate salesman, restaurant manager, vending machine repairman;
scars and marks: small scar on right cheek and right forearm; tattoos: "DON" on web of right hand, "ANN" on chest;
remarks: Webb, who is considered a career criminal and master of assumed identities, specializes in the burglary of jewelry stores. Reportedly allergic to penicillin, loves dogs, is a flashy dresser, and big tipper. He may be accompanied by Frank Joseph Lach, white male, born 11-23-40, Providence, RI, 6′, 270 lbs, brn hair, brn eyes, whose apprehension is also being sought by the FBI.
Wanted by FBI for INTERSTATE FLIGHT-MURDER; ATTEMPTED BURGLARY.

NCIC Classification:
080406130804TT020906

Fingerprint Classification:

$$\frac{\text{8 S 1 U III 8}}{\text{S 1 T II}} \quad \text{Ref:} \quad \frac{\text{T T U}}{\text{T R R}}$$

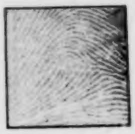
I.O. 4873

Social Security
Number Used: 462-48-0452

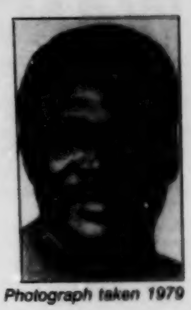
FBI No. 4 513 086

Caution

Webb is being sought in connection with the murder of a police chief who was shot twice at close range after being brutally beaten about the head and face with a blunt instrument. Consider Webb and Lach armed and extremely dangerous. Consider Webb an escape risk. FBI TOP TEN FIGITIVE



Left thumbprint



Photograph taken 1979

Neville McBean,
also known as Mack Bean, Tom Bean, Frank Davis, Mack Davis, Cephas Alexander McBean, Cephus Alexander McBean, Nevelle McBean, Nevill McBean, Neville McBeam.
N; born 1-4-30; Higgin Town, St. Ann, Jamaica (not supported by birth records); 6′0″–6′1″; 190–220 lbs; med bld; blk hair; brn eyes; drk comp; occ-farm laborer, house painter, scrap metal dealer, truck driver;
scars and marks: scar left finger; knife scars on abdomen; gunshot wound scar right side of spine; pock marks on left side of face;
remarks: speaks with British accent; illiterate.
Wanted by FBI for INTERSTATE FLIGHT-MURDER.

NCIC Classification:
PI1862CIPI1716PMPOCI

Fingerprint Classification:

$$\frac{\text{18 I 12 Ur}}{\text{L 22 U}} \quad \text{Ref:} \quad \frac{11}{22}$$

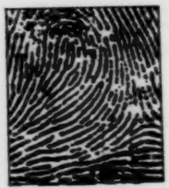
I.O. 4904

Social Security
Numbers Used: 244–18–8835;
494–42–1188

FBI No. 193 336 D

Caution

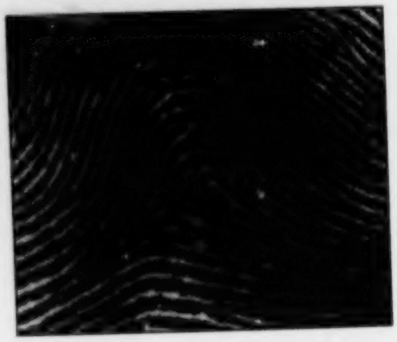
McBean is being sought for the murder of a female victim, whom he shot in the face with a .38-caliber handgun. McBean is known to possess dangerous weapons and should be considered armed, dangerous, and an escape risk.



Right middle fingerprint

Questionable Pattern

This pattern consists of two separate loop formations, with two separate and distinct sets of shoulders and two deltas, and is classified as a double loop whorl. The tracing is meeting. We have referenced this pattern to a loop of three ridge counts, inasmuch as the upper looping ridge is slightly pointed.



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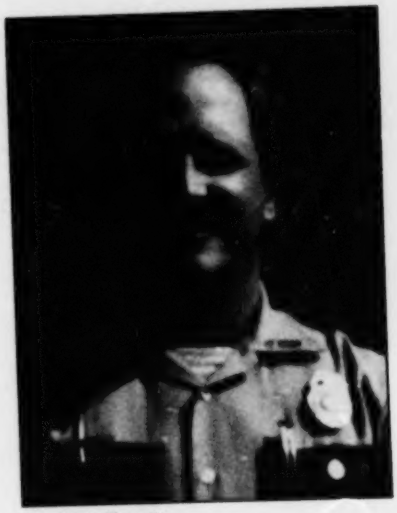
The Bulletin Notes

Patrolman Jeff Everetts, Brinkley, AR, Police Department, responded to a bus accident on July 14, 1986, and according to doctors, saved the lives of at least three injured victims by applying tourniquets and rendering others first aid. The Bulletin is very pleased to join Patrolman Everetts' chief in recognizing this public service.



Patrolman Everetts

55/12

December 1986

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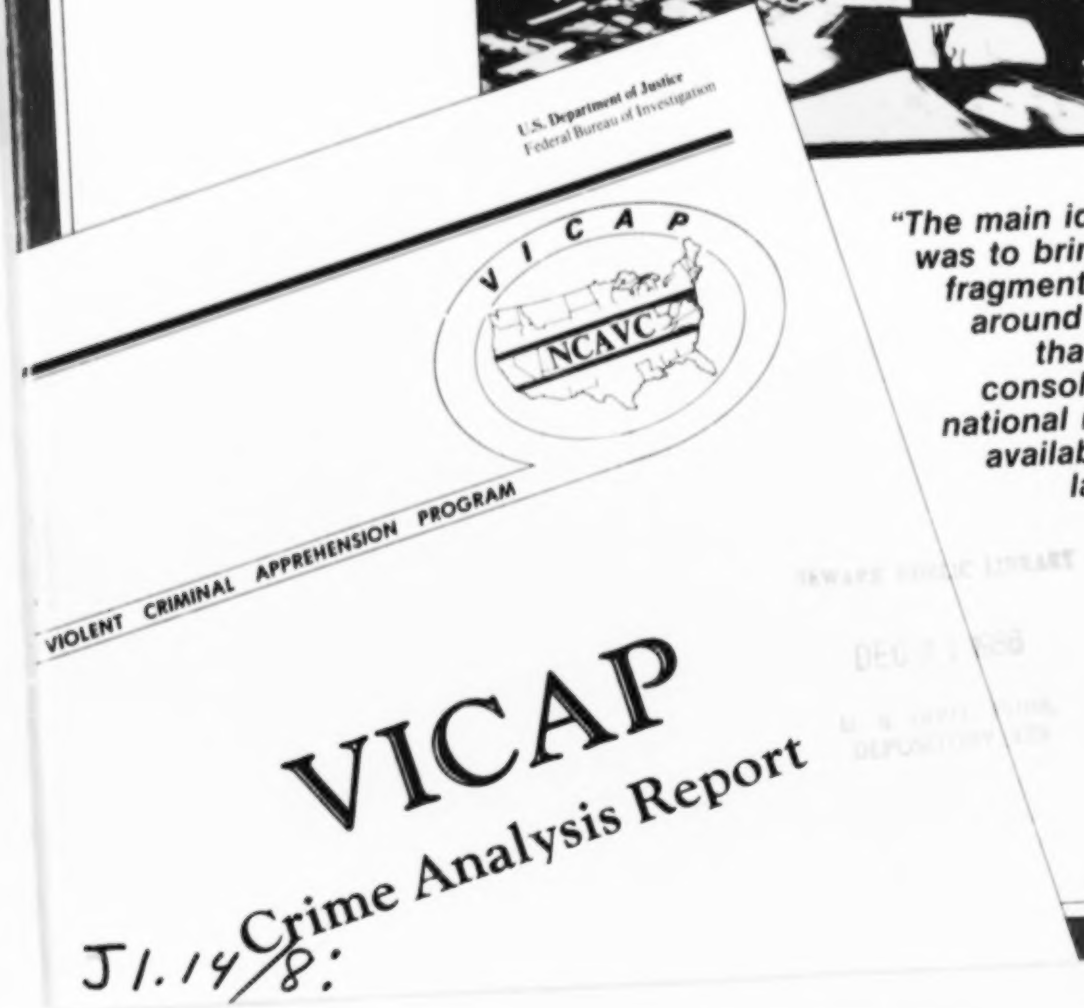

U.S. Department of Justice
Federal Bureau of Investigation

VIOLENT CRIMINAL APPREHENSION PROGRAM

VICAP
Crime Analysis Report

"The main idea of [NCAVC] was to bring together the fragmented efforts from around the country so that they could be consolidated into one national resource center available to the entire law enforcement community."

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FBI
Law Enforcement Bulletin

United States Department of Justice
Federal Bureau of Investigation
Washington, DC 20535

William H. Webster, Director

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 6, 1988.

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The Cover:
This special issue of the *Bulletin* reports on the National Center for the Analysis of Violent Crime, its four major programs, and the services it provides to the law enforcement community.

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Director's Message

To further law enforcement cooperation, this issue of the *FBI Law Enforcement Bulletin* continues the reporting begun in August 1985, of developments in the National Center for the Analysis of Violent Crime (NCAVC). The need for interagency cooperation in law enforcement has become even more vital with the problem of the serial violent criminal. This highly mobile, repetitive offender often eludes identification and apprehension by law enforcement because his crimes transcend jurisdictional boundaries. This offender often confounds the investigations of separate police agencies where he operates which may not be aware of similar crimes elsewhere.

The FBI, in its dual role as a Federal criminal justice agency and as a law enforcement service organization, offers assistance to other agencies investigating these violent offenses through its NCAVC. The center is a law enforcement-oriented behavioral science and computerized resource center which consolidates research, training, and investigative support functions. It was jointly planned by the Department of Justice agencies of the National Institute of Justice (NIJ), the Office of Justice Assistance, Research and Statistics, the Office of Juvenile Justice and Delinquency Prevention, several State and local law enforcement agencies, and the FBI. NIJ initially funded the pilot project, but today the center is totally supported within the FBI's budget.

This special issue of the *Bulletin* describes the development of the center, its four major programs, and the center's services now available to law enforcement agencies. It also discloses how the center is providing training for police officers. The new insights into the criminal personality and the innovative investigative techniques developed as a result of research and case experiences of the center are immediately incorporated into training curricula. This new knowledge is also being disseminated to the law enforcement community through articles in professional journals, such as the *FBI Law Enforcement Bulletin*, in addition to the center's direct training efforts.

All of us in law enforcement must work together to combat the violent criminal and use every technique available to us. Inscribed on the courtyard wall of FBI Headquarters is our belief: "The most effective weapon against crime is cooperation . . . the efforts of all law enforcement agencies with the support and understanding of the American people." The center is now an important asset to law enforcement in the struggle to control the serial violent offender.

William H Webster

William H. Webster
Director
December 1, 1986

An American Response to an Era of Violence

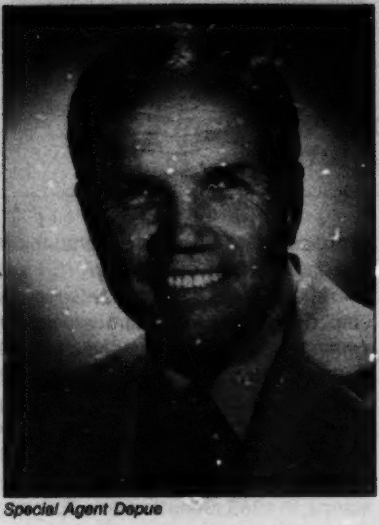
By
ROGER L. DEPUE, Ph.D.
Special Agent/Unit Chief
Behavioral Science Instruction and Research Unit and Administrator
National Center for the Analysis of Violent Crime
FBI Academy Quantico, VA

The year 1980 marked the beginning of a new decade. It was a time for looking back at the record and evaluating America's progress toward the good life on the one hand and for looking ahead toward the best possible future on the other. Despite many significant accomplishments made during the previous decade, one glaring societal failure stood out. Violent crime had steadily increased in American society and it was continuing to increase at an alarming rate.[1] In fact, the violent crime wave which had begun in 1963 was showing no signs of abatement well into 1980.[2] One of the more reliable indexes, the homicide rate had more than doubled since 1962. More than 20,000 people were being murdered per year as we entered the new decade. The year 1980 itself became a record year with more than 23,000 people becoming victims of homicide.[3] It was unprecedented mayhem. The rates for other serious violent crimes, such as aggravated assault, forcible rape, and robbery, were equally disturbing. Predatory stranger-to-stranger violent crime was increasing steadily, while the number of cases cleared by arrest were decreasing.[4] Lois Haight Herrington, Chairperson of the President's Task Force on Victims of Crime, summarized the national situation like this:

> "Something insidious has happened in America: crime has made victims of us all. Awareness of its danger affects the way we think, where we live, where we go, what we buy, how we raise our children, and the quality of our lives as we age. The specter of violent crime and the knowledge that, without warning, any person can be attacked or crippled, robbed, or killed, lurks at the fringes of consciousness. Every citizen of this country is more impoverished, less free, more fearful, and less safe, because of the ever present threat of the criminal. Rather than alter a system that has proven itself incapable of dealing with crime, society has altered itself."[5]

It was a downward spiral. Something had to be done.

In 1981, the Attorney General of the United States, William French Smith, established the Attorney General's Task Force on Violent Crime. It was his intention to assemble a group of knowledgeable individuals who were highly recognized for their expertise in a variety of pertinent professions and academic disciplines to study the problem of violent crime in America. The task force was to make recommendations regarding what might be done to curb the rapid growth of violent crime and to reduce its adverse impact on the quality of American life.[6]



Special Agent Depue

In addition to establishing the task force, Smith required each agency of the Department of Justice to submit a report outlining what the agency might do to assist in a national effort to reduce the level of violent crime. The Federal Bureau of Investigation (FBI) received its mandate, and Director William H. Webster began a systematic survey of Bureau resources to determine those which could be applied to this national cause. The FBI's Training Division located at the FBI Academy at Quantico, VA, was immediately considered to be a major resource to draw upon for ideas. It was often used as a think tank to address issues of this nature. After submitting its initial report, the Training Division was designated the lead division in formulating the FBI's role in combating violent crime in America, and within it, the Behavioral Science Unit (BSU) became the center of activity.

Over the years, the BSU had established an impressive record of furnishing assistance to Federal, State, and local law enforcement agencies. During training on violent criminal behavior, police officers would frequently discuss unsolved cases and ask for the instructor's opinion about the type of person they might be seeking. They were also interested in obtaining innovative investigative ideas, and the instructors helped them plan case strategies. Soon, the BSU was consulting on unsolved cases on a regular basis through a formalized Crime Analysis and Criminal Personality Profiling Program.

FBI Agents from the Behavioral Science Unit had also completed the first law enforcement-oriented behavioral science Criminal Personality Research Project. Thirty-six of the most notorious sexually oriented serial murderers incarcerated at that time and their hundreds of crimes had been analyzed.[7] The research instrument consisted of a 5-part, 57-page protocol which was completed in conjunction with 5- to 10-hour intensive interviews of the murderers by veteran FBI Agents with behavioral science backgrounds. The overall purpose was to elicit information regarding each offender's developmental history; physical and personality characteristics; modus operandi; pre- and post-offense behavior; victim selection, manipulation, and control; and techniques used to successfully evade detection, apprehension, prosecution, and confinement.

The research was conducted with the assistance of academic and mental health consultants who were led by Dr. Ann Wolbert Burgess of Boston City Hospital and Boston University (now at the University of Pennsylvania). The National Institute of Justice (NIJ) awarded a grant to Dr. Burgess to pursue the project with her FBI colleagues. The research resulted in the development of valuable investigative techniques, as well as insights into the personalities of these killers. This body of knowledge served to enhance training and consultation functions. The staff of the BSU was often called upon to address criminal justice and behavioral science conferences and symposia on violent crime matters.

In addition to their training, research, and consultation functions specifically designed to help law enforcement officers deal more effectively with violent crime, members of the Behavioral Science Unit traveling throughout the country had occasion to observe a variety of State and local programs designed to deal with violent crime problems and to identify the best. Ideas such as former Los Angeles

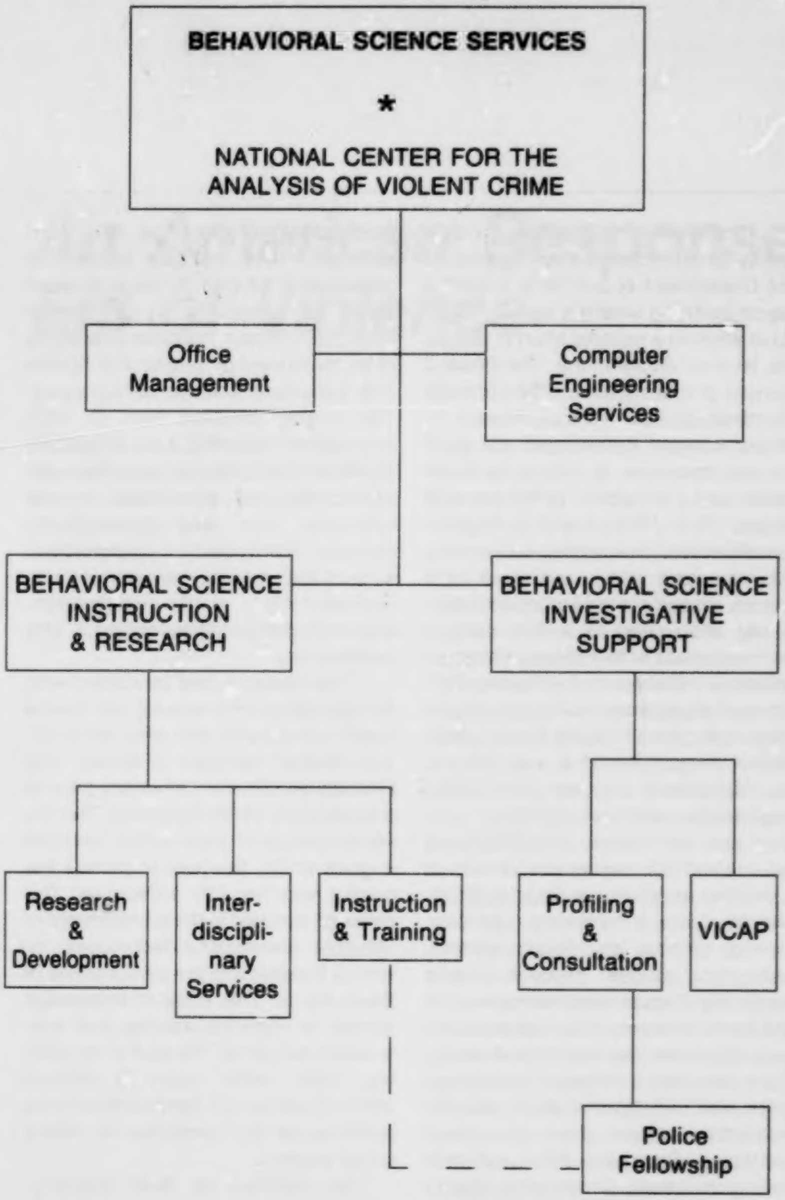

BEHAVIORAL SCIENCE SERVICES
*
NATIONAL CENTER FOR THE ANALYSIS OF VIOLENT CRIME
Office Management
Computer Engineering Services
BEHAVIORAL SCIENCE INSTRUCTION & RESEARCH
BEHAVIORAL SCIENCE INVESTIGATIVE SUPPORT
Research & Development
Inter-disciplinary Services
Instruction & Training
Profiling & Consultation
VICAP
Police Fellowship

Figure 1 Organizational chart for the National Center for the Analysis of Violent Crime.

Police Department Commander Pierce R. Brooks' Violent Criminal Apprehension Program (VICAP) and the Arson Information Management System (AIMS), codeveloped by Dr. David Icove, were identified, and their founders invited to the FBI Academy for consultation. Such a meeting was held with the Criminal Personality Research Project Advisory Board in November 1982, and resulted in the concept of a National Center for the Analysis of Violent Crime (NCAVC). The main idea of this center was to bring together the fragmented efforts from around the country so that they could be consolidated into one national resource center available to the entire law enforcement community.

In addition to the Attorney General's emphasis on the problem of violent crime, the 98th Congress of the United States had shown interest in specific violent crime issues, such as "missing and murdered children," the "sexual exploitation of children," "unidentified dead bodies," and "serial killers."[6] For instance, in 1983, Senator Arlen Specter, Chairperson of the Subcommittee on Juvenile Justice, Committee on the Judiciary, U.S. Senate, with the strong support of Senator Paula Hawkins, held hearings as a means of gaining information from violent crime "experts" upon which to base new legislative initiatives and funding decisions. The goal was to strengthen the criminal justice system's capabilities to deal more effectively with a breed of human predator that often seemed to travel throughout the country with relative impunity, coldly murdering vulnerable women and children for no apparent motive.

Since 1982, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) had been investigating the possibility of awarding a grant to a diversified group of individuals made up of criminal justice professionals, academicians, writers, and other interested persons in order to establish a pilot VICAP program. Together with the National Institute of Justice, OJJDP funded a meeting of interested parties which was held in the summer of 1983 at Sam Houston State University's Center for Criminal Justice, located in Huntsville, TX. At the conclusion of the 2-day meeting, and after several presentations on violent crime topics, the participants unanimously agreed that a National Center for the Analysis of Violent Crime should be established. Furthermore, they agreed that it should be administered by the FBI's Behavioral

"The NCAVC's role . . . is to serve as a law enforcement clearinghouse and resource center for the most baffling and fearful of the unsolved violent crimes. . . ."

Science Unit and physically located at the FBI Academy. It was to be a law enforcement-oriented behavioral science and data processing resource center to consolidate research, training, and consultation functions for the purpose of providing assistance to Federal, State, and local law enforcement agencies who were confronted with unusual, bizarre, and/or particularly vicious or repetitive violent crime.

Speaking at the National Sheriff's Association Annual Conference in Hartford, CT, on June 21, 1984, President Ronald Reagan announced the establishment of the NCAVC with the primary mission of identifying and tracking repeat killers.[9] It was described as a joint project of the Department of Justice and the FBI.

In June 1984, the NCAVC was given life as a pilot project supported with NIJ funds furnished by way of an interagency agreement between the NIJ and the FBI. In October 1985, the total cost of funding the center was absorbed in the annual budget of the FBI.

As it was originally conceived, the NCAVC consisted of four programs—Research and Development, Training, Profiling and Consultation, and VICAP. These four basic programs constituted the backbone of the NCAVC and continue to exist today; however, the FBI has found it administratively feasible to divide the programs within *two* Behavioral Science Units.

In January 1986, the original Behavioral Science Unit which administered the NCAVC was split into two units, with each unit responsible for the administration of two of the four NCAVC programs. The Behavioral Science Instruction and Research (BSIR) Unit continues the traditional training functions of the original Behavioral Science Unit, as well as administers the Research and Development and the Training Programs of the NCAVC. The Behavioral Science Investigative Support (BSIS) Unit administers the Profiling and Consultation and the Violent Criminal Apprehension Programs of the NCAVC. The chief of the BSIR is the administrator and the chief of the BSIS is the deputy administrator. The organizational chart of the NCAVC is set out in figure 1.

The overall goal has been to reduce the amount of violent crime in American society. The NCAVC's role in this regard is to serve as a law enforcement clearinghouse and resource center for the most baffling and fearful of the unsolved violent crimes, such as homicide, forcible rape, child molestation/abduction, and arson. The NCAVC collects and analyzes violent crime data and provides assistance to law enforcement agencies in their attempts to identify, locate, apprehend, prosecute, and incarcerate the persons responsible for these and other violent crimes and to develop new programs for the prevention of violent crime victimization.

The NCAVC represents a new and powerful weapon in the law enforcement arsenal to combat violent crime. Its research efforts are bringing forth new insights into violent criminal behavior and personality. Its training programs are disseminating the latest violent crime information and investigative techniques. More and more cases are being successfully analyzed, and criminal profiles are being constructed with remarkable accuracy. Imaginative investigative and prosecutive strategies are being developed, resulting in earlier detection and arrest and more-certain conviction and confinement. VICAP is operating to link unsolved violent crimes to one another from throughout the country and to provide assistance in the coordination of complex interagency investigations. The latest advancements in computer engineering are being applied to violent crime problems with promising results.

The concerted efforts of the U.S. Congress, the Department of Justice, and Federal, State, and local criminal justice agencies to bring violent crime under control have made a difference in America. They have contributed to slowing the downward spiral and increasing the risk for the violent offender. The National Center for the Analysis of Violent Crime was born out of these national efforts and represents the new feeling in America. We are not only going to fight back—we are going to win.

Footnotes

[1] Federal Bureau of Investigation, *Crime in the United States—1984* (Washington, DC: U.S. Department of Justice, 1985).

[2] James Q. Wilson, *Thinking About Crime* (New York: Basic Books, 1975), p. 5.

[3] Supra note 1.

[4] R. M. Holmes and J. E. DeBurger, "Profiles in Terror: The Serial Murderer," *Federal Probation*, vol. 49, 1985, pp. 29–34.

[5] *Final Report of the President's Task Force on Victims of Crime*, by L. H. Herrington, Chairperson (Library of Congress Cataloging in Publication Data Report No. 82–24146) (Washington, DC: The White House, 1982), p. vi.

[6] Report of Attorney General's Task Force on Violent Crime, Washington, DC, 1981.

[7] "Crime Scene and Profile Characteristics of Organized and Disorganized Murderers," *FBI Law Enforcement Bulletin*, vol. 54, No. 8, August 1985, pp. 18–25.

[8] U.S. Congress, Senate, Committee on the Judiciary, *Patterns of Murders Committed by One Person, in Large Numbers with No Apparent Rhyme, Reason, or Motivation*. Hearings before the Subcommittee on Juvenile Justice of the Committee on the Judiciary, 98th Congress, 1st sess., June 1983, (Serial No. J–98–52) (Washington, DC: U.S. Government Printing Office).

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NCAVC'S Research and Development Program

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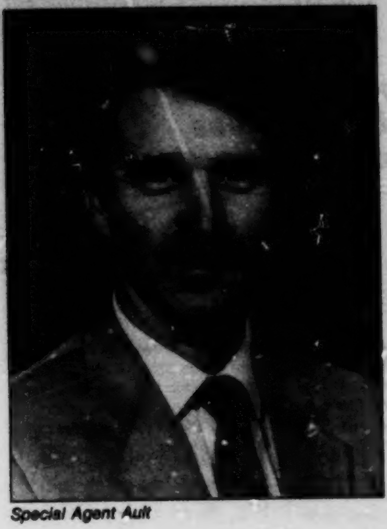
Research is often regarded as either a complex and arcane art form or a simple review of literature. Consequently, it is frequently considered to be a luxury that an organization can do without. In the Behavioral Science Services/National Center for the Analysis of Violent Crime (NCAVC) at the FBI Academy, the Research and Development Program is an integral part of the process of analysis of violent crime. Since the inception of crime scene analysis—also called profiling—much of the original information that was used to profile the offender of violent crimes was taken from the existing research. However, most of that research was oriented to the academic community and provided little that was useful to the type of profiling done by members of the NCAVC.

As the number of cases submitted to what was then called the Behavioral Science Unit (BSU) for profiling increased, the necessity for additional relevant data became obvious. Information was needed about the offender, his methods of operation, his victim selection, his personality makeup, and his view of himself. Moreover, by 1978, BSU members were profiling more than unsolved homicides; they were also profiling rapes, arsons, extortions, and other violent and nonviolent offenses.

In 1979, the BSU received approval to institute the Criminal Personality Research Project (CPRP), in which the unit members conducted preliminary research on violent offenders. Equipped with a protocol that covered most aspects of the offense and many facets of the offender's personality, the Special Agents conducted extensive interviews of incarcerated violent offenders.

It was through the CPRP that researchers outside the FBI became involved in the unit's violent crime research. As interviews were conducted of rapists and murderers, some of the findings were presented to various academic and professional groups. Among those interested in the research was Dr. Ann W. Burgess of the Boston City Hospital. Her enthusiasm to continue the research on violent offenders led her to obtain several grants from the Department of Justice to conduct research with the FBI. Members of the NCAVC have been collaborating with Dr. Burgess in the research studies in some of these grants, the first of which was obtained in 1982.

Using a refined version of the first protocol, BSU members and Dr. Burgess continued the study of serial murderers (so called because they killed several victims over a period of time). Another grant was awarded for research on serial rapists and child abductors/molesters. Results from the first grant are being published in profes-



Special Agent Ault

sional journals, including the special issue of the *FBI Law Enforcement Bulletin* in August 1985. Results of the rape study will be published in the near future.

Current Research

The function of the Research and Development Program in the NCAVC is to generate interest in research, provide administrative support for approved research projects, and to assure that the results are consistent with the methodology.

The studies of violent offenders and violent crimes are not the only projects that the NCAVC has conducted. In 1985, a rape survey was completed which inquired into the attitudes of police toward rape. Police are often depicted in popular literature as insensitive or even hostile to rape victims. The results of the study on police attitudes toward rape determined that police are *not* insensitive to the plight of rape victims. Moreover, police strongly view rape as a serious crime deserving severe punishment. The value of this study is found in the contribution of empirical research that corrects popular misconceptions and reveals what the police themselves think about other aspects of the criminal justice system which prosecutes the offenders.

Another research project accomplished by the NCAVC involved an inquiry into risk-taking and life-experience stress by police officers. The purpose of the study was to ascertain the relationship of recent life experiences—such as divorce, marriage, change of environment—and load stress to risk-taking. Among the results, the researcher found that even though police officers with greater negative life experiences (divorce, death in the family, etc.) took more risks, they did not necessarily fail to achieve their goal more. That is, they may take more risks to achieve a goal, but those risks will not necessarily result in failure.

Still other important research includes studies on arson. The capability exists in the NCAVC to analyze multiple arsons. One NCAVC member developed a computer-assisted system to collect, organize, and analyze information that is important in the evaluation of multiple arson cases. Called the Arson Information Management System (AIMS), it provides computer assistance to fire departments and police to help them develop strategies to predict and prevent multiple incendiary crimes. The latest application of computer analysis of arson is set out in a study based on information received from the Prince Georges County, MD, Fire Department. The results of the study provide significant information on profiles of offenders and their motives for the offenses. Providing the law enforcement community accurate information about motives of perpetrators enables investigators to conduct logical, motive-based investigations. The importance of this type of accurate information cannot be overstated, and the results of these studies will be published in future issues of the *FBI Law Enforcement Bulletin.*

> ***"Providing the law enforcement community accurate information about motives of perpetrators enables investigators to conduct logical, motive-based investigations."***

Left: Special Agent Robert K. Ressler consults with the project staff of the Criminal Personality Research Program at Boston City Hospital. Pictured are: Dr. Ann W. Burgess (at computer) and (standing from left) SA Ressler, HollyJean Chaplick, Marieanne Clark, and Peter Gaccione.

Below: Checking a reference are SA Ault and Cindy Lent.

Research is also currently conducted in other topics such as the history of psychological services in policing and the administrative goals of the NCAVC. These projects will be finished in the near future, and their conclusions published as they are completed.

Yet another important area for research is terrorism. An NCAVC member will soon be publishing the results of several years of research into training programs that are designed to enable individuals who may be held as hostages in terrorist—or other—situations to cope more effectively with the stress of their captivity. This research emphasizes hostage survival.

The future itself is a study for the NCAVC. The anticipation of future problems in law enforcement is not being neglected. Using Delphi methodology, a member of the NCAVC is now completing a serious study that attempts to determine the directions of law enforcement in the next 20 years.

Future Research

The future also holds promise for other research topics. Using unique—yet valid—methods for research, members of the NCAVC can address such areas as public corruption, fugitives from justice, jury selection, child molestation, terrorism, and extortion. In fact, areas in the criminal justice system still needing research are limitless.

The changing image and mission of the FBI in the past 10 years have provided the National Center for the Analysis of Violent Crime with an unparalleled opportunity to dig into the foundations of violent and nonviolent crimes with the hope of discovering clues about the behavior of offenders that can be applied in a practical fashion to investigations. Members of the NCAVC hope to continue searching to support investigations into violent crime.

FBI

Criminal Profiling

A Viable Investigative Tool Against Violent Crime

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Quickly apprehending a perpetrator of a violent crime—rape, homicide, child abduction—is a major goal of all law enforcement agencies. Unlike other disciplines concerned with human violence, law enforcement does not, as a primary objective, seek to explain the actions of a violent offender. Instead, its task is to ascertain the identity of the offender based on what is known of his actions. Described by one author as an emitter of signals during commission of a crime,[1] the criminal must be identified as quickly as possible to prevent further violence. While studies explaining why certain individuals commit violent crimes may aid them in their search, law enforcement investigators must adapt the study findings to suit their own particular needs. Criminal profiling is a tool law enforcement may use to combine the results of studies in other disciplines with more traditional techniques in an effort to combat violent crime.

The Profiling Process

The profiling process is defined by the FBI as an investigative technique by which to identify the major personality and behavioral characteristics of the offender based upon an analysis of the crime(s) he or she has committed. The process generally involves seven steps.

1) Evaluation of the criminal act itself,

2) Comprehensive evaluation of the specifics of the crime scene(s),

3) Comprehensive analysis of the victim,

4) Evaluation of preliminary police reports,

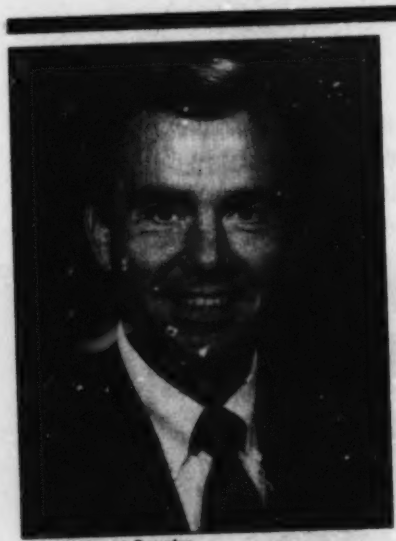
5) Evaluation of the medical examiner's autopsy protocol,

6) Development of profile with critical offender characteristics, and

7) Investigative suggestions predicated on construction of the profile.

The process used by the person preparing a criminal personality profile is quite similar to that used by clinicians to make a diagnosis and treatment plan: Data is collected and assessed, the situation reconstructed, hypotheses are formulated, a profile developed and tested, and the results reported back.

Criminal personality profiling has been used by law enforcement with success in many areas and is viewed as a way in which the investigating officer can narrow the scope of an investigation. Profiling unfortunately does not provide the identity of the offender, but it does indicate the type of person most likely to have committed a crime having certain unique characteristics.



Special Agent Douglas

Special Agent Burgess

Profile Applications

One area in which criminal profiling (personality assessment) has been useful is in hostage negotiation.[2] Law enforcement officers need to learn as much as possible about the hostage taker in order to protect the lives of the hostages. They must be able to assess the subject in terms of his probable course of action and his reactions to various stimuli. In such cases, police obtain information about the offender through verbal contact with the hostage taker and possibly through access to his family and associates.

Criminal profiling techniques have also been used in identifying anonymous letter writers[3] and persons who make written or spoken threats of violence.[4] In cases of the latter, psycholinguistic techniques have been used to compose a "threat dictionary," whereby every word in a message is assigned, by computer, to a specific category. Words as they are used in the message are then compared to those words as they are used in ordinary speech or writings, and the vocabulary usage of a particular author or speaker may yield "signature" words unique to that individual. In this way, police may not only be able to determine that several letters were written by the same individual but also learn about the background and psychology of the offender.

Rapists and arsonists also lend themselves to criminal profiling techniques. Through careful interview of the rape victim about the rapist's behavior, law enforcement personnel may be able to build a profile of the offender.[5] The theory behind this approach is that behavior (sexual, physical, verbal) reflects personality, and by examining the behavior of the rapist during the assault, the investigator may be able to determine what type of person is responsible for the offense. Common characteristics of arsonists have been derived from an analysis of the Uniform Crime Reports.[6] Knowledge of the arsonist's psychodynamics can aid the investigator in identifying possible suspects, predicting location of subsequent arsons, and developing techniques and strategies for interviewing suspects.

Criminal profiling has been useful in investigating sexual homicides because many of these crimes appear motiveless and thus offer few obvious clues about the killer's identity. In murders that result from jealousy or a family quarrel, or take place during commission of a felony, the readily identifiable motive generally provides vital information about the identity of the killer. Because many sexual homicides fail to provide this information, investigators must look to methods that supplement conventional investigative techniques to identify the perpetrator.

Case in Point

Criminal profiling uses the behavioral characteristics of the offender as its basis. Sexual homicides, for example, yield much information about the mind and motivation of the killer. A new dimension is provided to the investigator via the profiling technique, particularly in cases where the underlying motivation for the crime may be suddenly hidden from even the more-

"Criminal profiling uses the behavioral characteristics of the offender as its basis."

On occasion, NCAVC profilers or major case specialists will conduct on-site consultations. Pictured from left are Special Agents Robert Hazelwood, Ray Phelps, James Wright (kneeling), Robert Ressler, and Alan Burgess.

experienced detective. The following case will illustrate this point.

During the fall of 1982, an urban Midwest police department detective telephonically contacted the FBI's Behavioral Science Unit at the FBI Academy asking for some assistance. The detective described in detail the rape/murder of a 25-year-old white married woman. The detective advised that the apartment where the victim was killed had been ransacked, but they were unable to determine at that time if anything was taken by the killer. In view of the fact that many leads were still outstanding and information concerning the autopsy, laboratory examinations, background of the victim, previously reported neighborhood crimes, etc., was still pending, the detective was advised that a profile could not be provided at that time. After approximately 1 week, the detective forwarded the necessary information to the local FBI field office criminal profile coordinator. After reviewing the case for completeness, the profile coordinator forwarded the materials to the Behavioral Science Investigative Support Unit at the FBI Academy for analysis.

Color 8 x 10 crime scene photographs re-created the crime and revealed that the victim was killed in her living room, with no evidence of any struggle or defense attempts by her. The victim was lying face up on the living room floor. Her dress was raised up over her hips exposing her genital area, and her panties were pulled down to her knees. The murder weapon (hammer) belonging to the victim was found in kitchen sink, and it appeared that the victim's blood had been washed off the hammer by the subject. Crime scene photographs further revealed that the subject opened dresser drawers and closet doors. Investigative reports indicated the victim's husband advised that jewelry belonging to victim was missing.

The victim and her husband had lived in the apartment for approximately 6 months, and neighbors and associates reported they were friendly and quiet and kept to themselves. The medical examiner concluded in his

> **"Profiling . . . does not provide the identity of the offender, but it does indicate the type of person most likely to have committed a crime having certain unique characteristics."**

Profilers in "think tank" session. Seated: SAs James Wright, Patricia Kirby, and Ronald Walker. Standing: Lt. Thomas Cronin, Chicago PD, Police Fellow (left) and SA R. Stephen Mardigian (right)

protocol that there was no apparent indication that the victim was sexually assaulted. Laboratory reports indicated that the victim had been drinking at the time of the assault, and there was no evidence of semen present in or on the victim or her clothing.

From the above information, the criminal profiler advised the detective that he had already interviewed the killer. The surprised detective was presented with the following probable crime scenario.

The victim was drinking with the offender prior to her death. An argument ensued, reaching a threshold where the offender could not take it any longer. Angered, he obtained a "weapon of opportunity" from a kitchen cabinet and returned to the living room where he confronted the victim face to face and repeatedly struck victim about her head and face. After killing her, the offender realized that the police would surely implicate him as the obvious murderer. He then washed blood from his hands in the kitchen sink and also cleaned blood and fingerprints from the hammer. He rolled the victim over in a face-up position and "staged" the crime to appear the way he felt a sexually motivated crime should look. He conducted the staging by making it appear that the offender searched for money or personal property in the apartment.

Upon hearing this analysis of the crime, the detective exclaimed, "You just told me the husband did it."

The detective was coached regarding suggested reinterview techniques of the victim's husband. In addition, the detective was further advised that if the victim's husband were given a polygraph examination, he in all probability would react more strongly to the known fact that he was "soiled" by his wife's blood than to questions concerning his wife's murder. The detective was told to have the polygraph examiner direct questions at the husband, acknowledging the fact that he got blood on his hands and washed them off along with the hammer in the kitchen sink.

About 5 days later, the detective called the criminal profiler to advise that the victim's husband was charged with murder. According to the detective, the husband failed the polygraph and subsequently admitted his guilt to the polygraph examiner.

The Profiling and Consultation Program

The FBI's profiling program has grown considerably since the late 1970's from "informal" analysis and profiling during criminal psychology classes at the FBI Academy to the present formalized program. Currently, the program consists of one program manager and seven criminal profilers and crime analysts. These Agents were selected primarily for their investigative experience, expertise, and educational backgrounds. The Behavioral Science Investigative Support Unit has found that anyone seeking transfer into this highly specialized program must possess above all other attributes and accomplishments a strong investigative background that includes participating in, supervising, and managing major case assignments.

During 1985, the Criminal Profiling and Consultation Program received over 600 requests for profiling assistance. It is anticipated that once the FBI's Violent Criminal Apprehension Program (VICAP) is fully operational, the number of profiling requests will nearly double annually.

One key link to the success of the FBI's Criminal Profiling Program is its criminal profile coordinators who are located at every one of the FBI's 59 field offices. These highly trained and selected Agents are responsible for screening cases and for providing preliminary investigative suggestions to investigators. While the field coordinators do not have the authority to provide profiles to requesting law enforcement agencies, they are authorized to prepare preliminary "rough draft" profiles which are reviewed by the profiling staff at the FBI Academy prior to being disseminated to the requesting agency.

Criminal profiling is available to local, State, Federal, and foreign law enforcement agencies or departments. It should be noted that not every violent crime matter lends itself to the profiling process. The criminal profile coordinators in the FBI field offices determine during review of the case whether it can be profiled. However, while a case may not be suitable for profiling, the coordinator may still submit it to the Behavioral Science Unit for other types of services. Criminal profilers at the FBI Academy may assist the law enforcement community by providing interview/interrogation techniques, investigative suggestions and techniques, establish probable cause for search warrants as a result of National Center for the Analysis of Violent Crime violent offender research findings, assist prosecutors relative to prosecutive strategies, and possibly provide testimony as a witness for the prosecution or as an expert witness during the sentence phase of the trial. All cases must be submitted to the local FBI field office for review and administrative handling by that criminal profile coordinator.

Lt. Commdr. Vernon J. Geberth of the New York City Police Department wrote in his book, *Practical Homicide Investigation: Tactics, Procedures and Forensic Techniques*, "This program has proven to be beneficial to law enforcement and has provided homicide detectives with a viable investigative tool. . . ."[7]

Criminal profiling will never take the place of a thorough and well-planned investigation nor will it ever eliminate the seasoned, highly trained, and skilled detective. Criminal profiling has, however, developed itself to a level where the detective has another investigative weapon available to him in solving a violent crime. The offender, on the other hand, has an added worry that in time he will be identified, indicted, successfully prosecuted, and sentenced for his crime.

Footnotes

[1] M. Willmer, *Crime and Information Theory* (Edinburgh, England: The University of Edinburgh, 1970).

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[4] M. S. Miron and John E. Douglas, "Threat Analysis: The Psycholinguistic Profile," *FBI Law Enforcement Bulletin*, vol. 48, No. 9, September 1979, pp. 5–9.

[5] R. R. Hazelwood, "The Behavior-oriented Interview of Rape Victims: The Key to Profiling," *FBI Law Enforcement Bulletin*, vol. 52, No. 9, September 1983, pp. 8–15.

[6] A. O. Rider, "The Firesetter—A Psychological Profile," *FBI Law Enforcement Bulletin*, vol. 49, No. 6, June 1980, pp. 4–11.

[7] Vernon J. Geberth, *Practical Homicide Investigation: Tactics, Procedures and Forensic Techniques* (New York: Elsevier, 1983), p. 399.

Right: Pierce R. Brooks (left), originator and first Program Manager of VICAP, and David J. Icove enter crime report data into the VICAP computer system.
Far center: Mr. Brooks (left) and Special Agent Ressler (right)
Far right: Mr. Howlett (left) and Mr. Hanfland (right)

The Violent Criminal Apprehension Program

VICAP: A Progress Report

By
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Origin of the VICAP Concept

On the afternoon of May 29, 1985, Pierce R. Brooks sat down in front of a computer terminal at the FBI Academy and saw his idea, which was some 27 years in the making, become a reality. On that afternoon, he watched as data from the first VICAP crime report were entered into the brand new VICAP computer system. Brooks, who had lived at the FBI Academy for approximately 9 months while serving as the first program manager of the FBI's new Violent Criminal Apprehension Program, was just 2 days from returning to his wife and home in Vida, OR.

In 1958, Pierce Brooks, already a 10-year veteran with the Los Angeles Police Department, had been assigned two "different" homicides among his many cases. He believed that both killers had killed before and decided to attempt to find out if similar murders had occurred elsewhere in the country. His available resources were sparse. There was no national information center which collected information on the modi operandi (MOs) of transient killers. There was a teletype system, but teletypes were easily lost and many were not even read. Brooks employed a new tact in the investigations; he

"...VICAP is a nationwide data information center designed to collect, collate, and analyze specific crimes of violence."

began going to the city library and reviewing major city newspapers looking for stories describing similar cases.

The use of the library to search for similar cases during a homicide investigation in the late 1950's was a primitive forerunner of VICAP. It was that effort which spawned the idea that grew into today's reality.

VICAP and the FBI

During the 1970's, Brooks spoke with officials of the U.S. Department of Justice about his concept. Eventually, LEAA funds were approved to finance a task force to study the idea. Homicide investigators, crime analysts, and other criminal justice experts from over 20 State and local law enforcement agencies participated.

Coincidental with the activities of the VICAP Task Force were discussions by members of the FBI's Behavioral Science Unit (BSU) at the FBI Academy regarding the development of a National Center for the Analysis of Violent Crime (NCAVC). The NCAVC was seen as a formalization and extension of the existing programs within the unit, as well as an attempt to identify other innovative concepts being developed around the country. The BSU programs had resulted from the work in the development of criminal personality profiling and the supporting research done by members of the unit in the area of violent crime.

A BSU staff member joined the VICAP Task Force, and the Behavioral Science Unit programs merged conceptually with VICAP. In 1984, the National Center for the Analysis of Violent Crime was formally established by an interagency transfer of funds from the National Institute of Justice to the FBI.

VICAP had until then been only a concept, and it was decided that the first year of operation would be considered a field test of all aspects of the program, including the VICAP Crime Report form, the computer support system, and internal procedures. VICAP officially became operational on May 29, 1985, 2 days before the self-imposed deadline of June 1, 1985.

What is VICAP?

As envisioned by Brooks and implemented by the FBI with his assistance, VICAP is a nationwide data information center designed to collect, collate, and analyze specific crimes of violence. Currently, cases which meet the following criteria are accepted by VICAP:

1) Solved or unsolved homicides or attempts, especially those that involve an abduction; are apparently random, motiveless, or sexually oriented; or are known or suspected to be part of a series;

> ***"By analyzing the case-related information submitted by law enforcement agencies, the VICAP staff determines if similar pattern characteristics exist among the individual cases in the VICAP system."***

Right: Checking VICAP entries are Mr. Hanfland (standing), Constance Dodd (left), and Michael Mahieu (right).
Far center: Anna Boodee (seated left), Mr. Howlett (center), and Roland Reboussin (right).
Far right: Tracking criminals are major case specialists Winston Norman (left) and Terence Green (right).

2) Missing persons, where the circumstances indicate a strong possibility of foul play and the victim is still missing;
3) Unidentified dead bodies where the manner of death is known or suspected to be homicide.

It is important that cases in which the offender has been arrested or identified are still submitted so that unsolved cases in the VICAP system can be evaluated for possible linkage to known offenders. Also, it is anticipated that the VICAP system will be expanded to include rape, child sexual abuse, and arson cases within the next 12 to 24 months.

By analyzing the case-related information submitted by law enforcement agencies, the VICAP staff determines if similar pattern characteristics exist among the individual cases in the VICAP system. The identification of similar patterns is made by analyzing MO, victimology, physical evidence, suspect description, and suspect behavior exhibited before, during, and after the crime.

The goal of VICAP is to provide all law enforcement agencies reporting similar pattern violent crimes with the information necessary to initiate a coordinated multiagency investigation which will lead to the expeditious identification and apprehension of the offender responsible for the crimes.

VICAP's First Year

The attainment of the first objective, becoming "operational" by June 1, 1985, and the entry of the first data into the computer were, of course, only the beginning. A very comprehensive, three-part VICAP Crime Report form had been developed to collect the information necessary to support the operations of VICAP. The Bureau's profile coordinators from each of the 59 field divisions received in-depth training regarding the VICAP Program itself, as well as the use and completion of the report form. It then became the job of these individuals to provide training to State and local law enforcement personnel, especially homicide investigators, regarding VICAP and the submission of information using the form.

Perhaps the largest task was that of continuing the development of the computer programs necessary to allow the analysts to manipulate the vast amounts of data in a meaningful way. The level of detail collected by the report form dictated that large and complex programs be developed. And the type of case matching demanded by VICAP had never been accomplished before on such a large scale. All of these factors combined to make the entire development process slow and occasionally frustrating.

A Major Revision

Approximately 6 months after VICAP began to receive cases for entry into the system, two things became evident. First, the number of cases being received by VICAP was fewer than originally anticipated. Second, developing a good understanding or overview of individual cases from information contained in the VICAP reports was difficult for the VICAP staff. The VICAP Crime Report form was collecting information that was too detailed for its intended purpose of providing crime analysts with the information necessary to establish linkages among cases.

VICAP's purpose was not to investigate cases but to analyze them. In order to do so effectively, general patterns have to be discernible, and that is better done by establishing the general parameters of events rather than extremely specific reconstructions. Crime scenes are seldom exactly replicated, but general MOs are. Crime analysis and criminal investigation require different levels of specificity.

In addition, feedback regarding the report form was being received from the investigators who were completing the form. A vast majority commented that it was "just too time consuming." The value of VICAP and the benefits to be derived from completing the form were not the issues. It was, however, becoming apparent that the time had come to carefully review and reevaluate the VICAP Crime Report.

In early 1986, the report underwent an extensive review, revision, and validation process. The revision was tested during controlled tests by over 30 experienced investigators attending the 144th Session of the FBI National Academy and modified further based upon their input. Finally, it was reviewed by nationally known homicide investigators who had both an extensive knowledge of VICAP and extensive experience completing the existing form. The final product of these efforts is the VICAP Crime Analysis Report form.

"VICAP and the National Center for the Analysis of Violent Crime have been developed to serve State and local law enforcement."

The VICAP Crime Analysis Report Form

The VICAP Crime Analysis Report form was released in July 1986. It is both shorter and simpler than the prototype. Most of the 15 pages to be completed are checklists, which can be answered in 15-20 minutes.

Information which was submitted to VICAP on the first form and which is already in the VICAP computer system will not be lost or need to be reported again. It will be converted automatically to be compatible with information reported using the new form.

From the perspective of the VICAP staff, the report is expected to be both more effective and efficient. Efficiencies will be gained in the review and data entry functions, as well as in the time required for computer processing of the data. The relative simplicity of the information, a brief narrative of the case, and the amenability of the data to analytical manipulation will all serve to enhance effectiveness.

Local law enforcement agencies have expressed concern with regard to the security of the cases they submit to VICAP. As originally planned, VICAP is a confidential system. Based upon Privacy Act guidelines, the substance of each case remains within the VICAP system and will not be disseminated without prior approval of the submitting agency. When cases are linked through VICAP, the investigators in the local agencies are given each others' names and telephone numbers so they can coordinate their efforts.

The availability of the VICAP Crime Analysis Report form will also be improved. It is the desire of the VICAP staff to have the report distributed to and stocked by every law enforcement agency in the country. The initial distribution may be limited to jurisdictions over 50,000 in population, but as additional copies are printed, the distribution will widen.

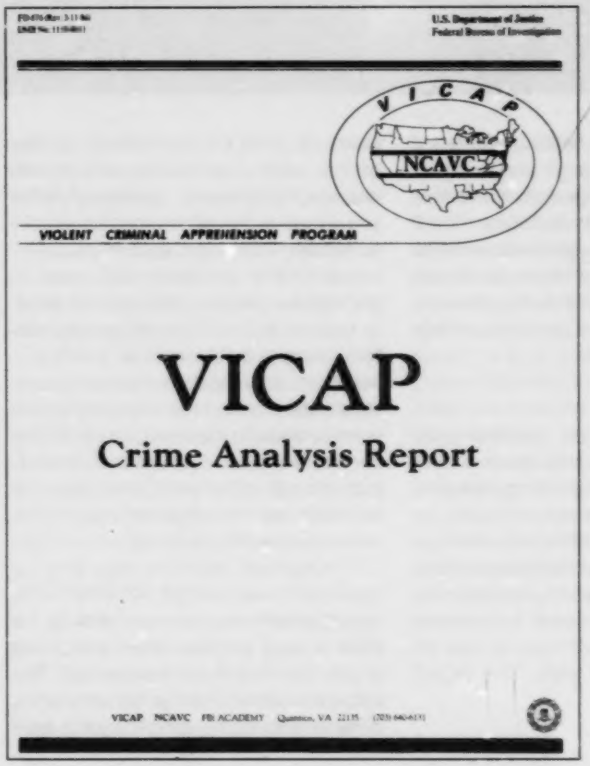
If you need a copy or copies of the form and your department has not received them, contact either the nearest FBI field office or resident agency or write or call VICAP directly. The address is:

VICAP
NCAVC
FBI Academy
Quantico, VA 22135

Or call (703) 640-6131 and ask to be connected with VICAP.

VICAP and the National Center for the Analysis of Violent Crime have been developed to serve State and local law enforcement. VICAP is a no-cost resource to enhance the ability of law enforcement, nationally, to identify and apprehend the most violent of all criminals in society today—the serial murderer. If it helps just one officer identify and arrest just one serial murderer, how many lives will have been saved? We may not know the precise answer to that question, but if it's just one life, VICAP will have served law enforcement well.

FBI



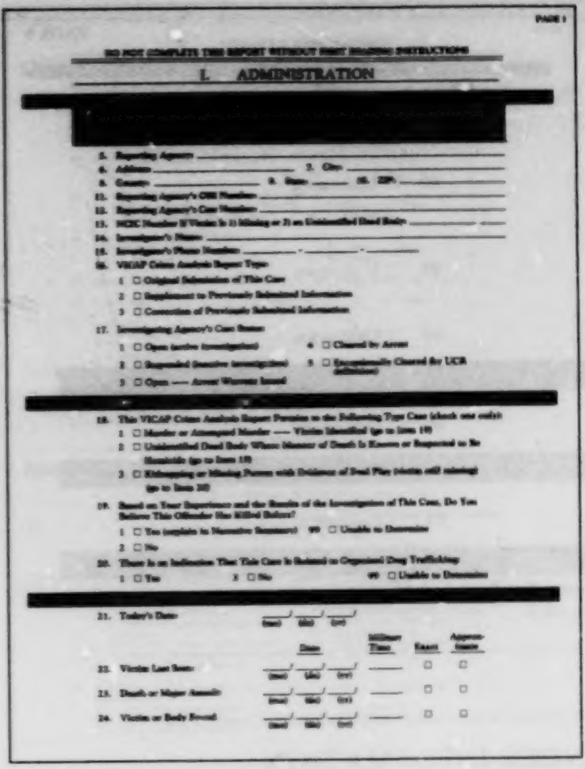
U.S. Department of Justice
Federal Bureau of Investigation

VIOLENT CRIMINAL APPREHENSION PROGRAM

VICAP

Crime Analysis Report

VICAP NCAVC FBI ACADEMY Quantico, VA 22135 (703) 640-6131



PAGE 1

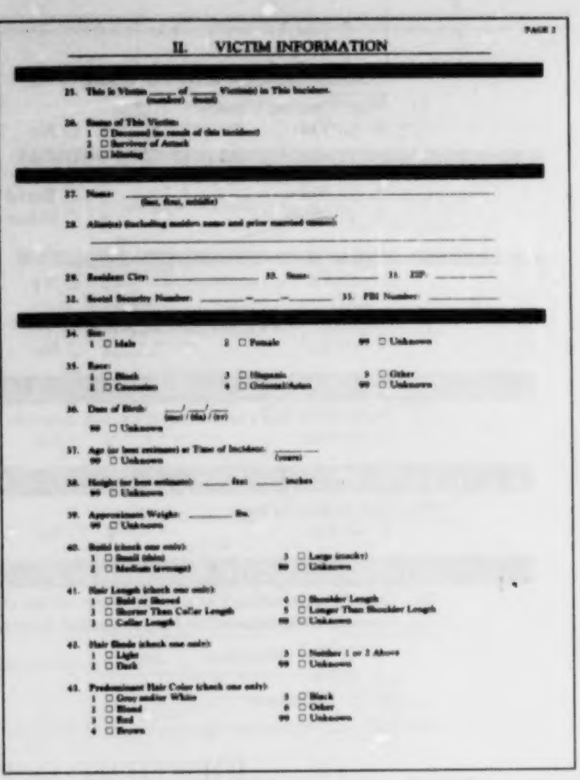
DO NOT COMPLETE THIS REPORT WITHOUT FIRST READING INSTRUCTIONS

I. ADMINISTRATION

[illegible]

5. Reporting Agency: ____________
6. Address: ____________ 7. City: ____________
8. County: ____________ 9. State: ______ 10. ZIP: ______
11. Reporting Agency's ORI Number: ____________
12. Reporting Agency's Case Number: ____________
13. NCIC Number If Victim Is 1) Missing or 2) an Unidentified Dead Body: ____________
14. Investigator's Name: ____________
15. Investigator's Phone Number: ______ - ______ - ______
16. VICAP Crime Analysis Report Type:
    - 1 ☐ Original Submission of This Case
    - 2 ☐ Supplement to Previously Submitted Information
    - 3 ☐ Correction of Previously Submitted Information
17. Investigating Agency's Case Status:
    - 1 ☐ Open (active investigation)
    - 2 ☐ Suspended (inactive investigation)
    - 3 ☐ Open — Arrest Warrant Issued
    - 4 ☐ Cleared by Arrest
    - 5 ☐ Exceptionally Cleared (by UCR definition)
18. This VICAP Crime Analysis Report Pertains to the Following Type Case (check one only):
    - 1 ☐ Murder or Attempted Murder — Victim Identified (go to Item 19)
    - 2 ☐ Unidentified Dead Body Where Manner of Death Is Known or Suspected to Be Homicide (go to Item 19)
    - 3 ☐ Kidnapping or Missing Person with Evidence of Foul Play (victim still missing) (go to Item 20)
19. Based on Your Experience and the Results of the Investigation of This Case, Do You Believe This Offender Has Killed Before?
    - 1 ☐ Yes (explain in Narrative Summary)
    - 2 ☐ No
    - 99 ☐ Unable to Determine
20. There Is an Indication That This Case Is Related to Organized Drug Trafficking:
    - 1 ☐ Yes
    - 2 ☐ No
    - 99 ☐ Unable to Determine
21. Today's Date: ___/___/___ (mo) (da) (yr)

	Date	Military Time	Exact	Approximate
22. Victim Last Seen:	___/___/___ (mo) (da) (yr)	______	☐	☐
23. Death or Major Assault:	___/___/___ (mo) (da) (yr)	______	☐	☐
24. Victim or Body Found:	___/___/___ (mo) (da) (yr)	______	☐	☐



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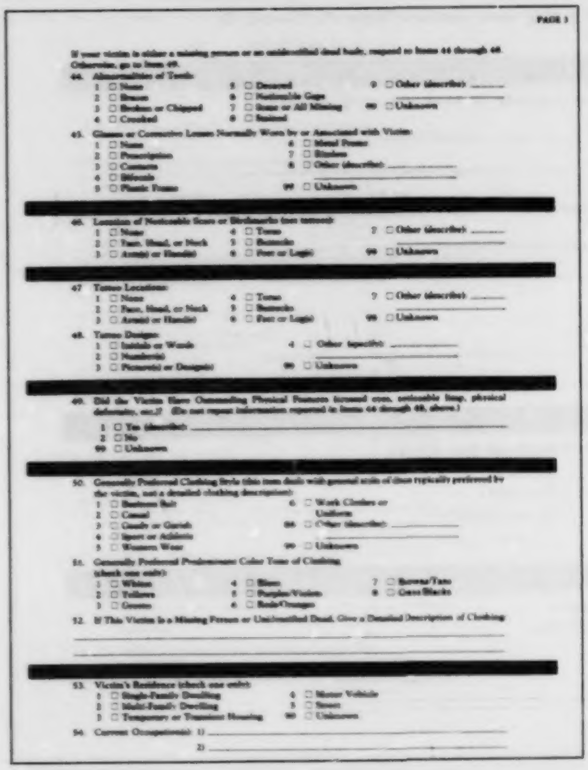
II. VICTIM INFORMATION

25. This Is Victim ______ (number) of ______ (total) Victim(s) in This Incident.
26. Status of This Victim:
    - 1 ☐ Deceased (as result of this incident)
    - 2 ☐ Survivor of Attack
    - 3 ☐ Missing
27. Name: ____________ (last, first, middle)
28. Alias(es) (including maiden name and prior married names): ____________
29. Resident City: ____________ 30. State: ______ 31. ZIP: ______
32. Social Security Number: ______-______-______ 33. FBI Number: ______
34. Sex:
    - 1 ☐ Male
    - 2 ☐ Female
    - 99 ☐ Unknown
35. Race:
    - 1 ☐ Black
    - 2 ☐ Caucasian
    - 3 ☐ Hispanic
    - 4 ☐ Oriental/Asian
    - 5 ☐ Other
    - 99 ☐ Unknown
36. Date of Birth: ___/___/___ (mo) / (da) / (yr)
    - 99 ☐ Unknown
37. Age (or best estimate) at Time of Incident: ______ (years)
    - 99 ☐ Unknown
38. Height (or best estimate): ______ feet ______ inches
    - 99 ☐ Unknown
39. Approximate Weight: ______ lbs.
    - 99 ☐ Unknown
40. Build (check one only):
    - 1 ☐ Small (thin)
    - 2 ☐ Medium (average)
    - 3 ☐ Large (stocky)
    - 99 ☐ Unknown
41. Hair Length (check one only):
    - 1 ☐ Bald or Shaved
    - 2 ☐ Shorter Than Collar Length
    - 3 ☐ Collar Length
    - 4 ☐ Shoulder Length
    - 5 ☐ Longer Than Shoulder Length
    - 99 ☐ Unknown
42. Hair Shade (check one only):
    - 1 ☐ Light
    - 2 ☐ Dark
    - 3 ☐ Neither 1 or 2 Above
    - 99 ☐ Unknown
43. Predominant Hair Color (check one only):
    - 1 ☐ Gray and/or White
    - 2 ☐ Blond
    - 3 ☐ Red
    - 4 ☐ Brown
    - 5 ☐ Black
    - 6 ☐ Other
    - 99 ☐ Unknown



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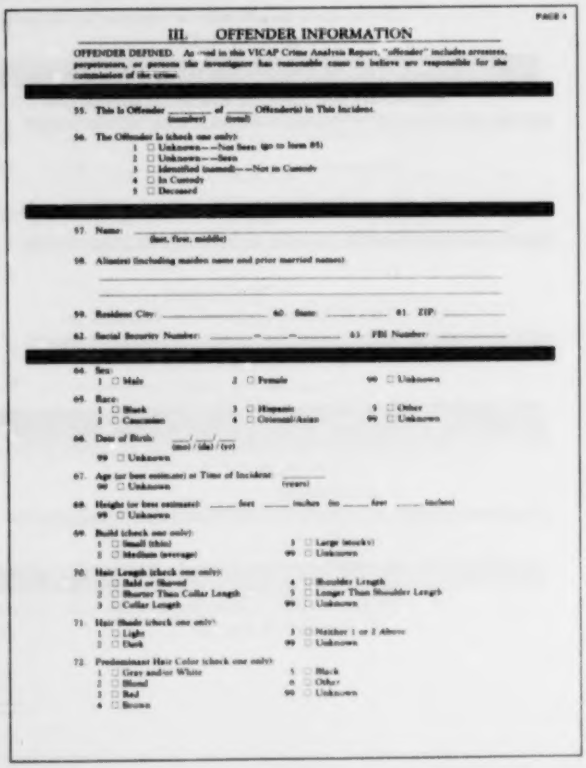
If your victim is either a missing person or an unidentified dead body, respond to Items 44 through 48. Otherwise, go to Item 49.

44. Abnormalities of Teeth:
    - 1 ☐ None
    - 2 ☐ Braces
    - 3 ☐ Broken or Chipped
    - 4 ☐ Crooked
    - 5 ☐ Decayed
    - 6 ☐ Noticeable Gaps
    - 7 ☐ Some or All Missing
    - 8 ☐ Stained
    - 9 ☐ Other (describe): ______
    - 99 ☐ Unknown
45. Glasses or Corrective Lenses Normally Worn by or Associated with Victim:
    - 1 ☐ None
    - 2 ☐ Prescription
    - 3 ☐ Contacts
    - 4 ☐ Bifocals
    - 5 ☐ Plastic Frame
    - 6 ☐ Metal Frame
    - 7 ☐ Rimless
    - 8 ☐ Other (describe): ______
    - 99 ☐ Unknown
46. Location of Noticeable Scars or Birthmarks (not tattoos):
    - 1 ☐ None
    - 2 ☐ Face, Head, or Neck
    - 3 ☐ Arm(s) or Hand(s)
    - 4 ☐ Torso
    - 5 ☐ Buttocks
    - 6 ☐ Foot or Leg(s)
    - 7 ☐ Other (describe): ______
    - 99 ☐ Unknown
47. Tattoo Locations:
    - 1 ☐ None
    - 2 ☐ Face, Head, or Neck
    - 3 ☐ Arm(s) or Hand(s)
    - 4 ☐ Torso
    - 5 ☐ Buttocks
    - 6 ☐ Foot or Leg(s)
    - 7 ☐ Other (describe): ______
    - 99 ☐ Unknown
48. Tattoo Designs:
    - 1 ☐ Initials or Words
    - 2 ☐ Number(s)
    - 3 ☐ Picture(s) or Design(s)
    - 4 ☐ Other (specify): ______
    - 99 ☐ Unknown
49. Did the Victim Have Outstanding Physical Features (crossed eyes, noticeable limp, physical deformity, etc.)? (Do not repeat information reported in Items 44 through 48, above.)
    - 1 ☐ Yes (describe): ______
    - 2 ☐ No
    - 99 ☐ Unknown
50. Generally Preferred Clothing Style (this item deals with general style of dress typically preferred by the victim, not a detailed clothing description):
    - 1 ☐ Business Suit
    - 2 ☐ Casual
    - 3 ☐ Gaudy or Garish
    - 4 ☐ Sport or Athletic
    - 5 ☐ Western Wear
    - 6 ☐ Work Clothes or Uniform
    - 88 ☐ Other (describe): ______
    - 99 ☐ Unknown
51. Generally Preferred Predominant Color Tone of Clothing (check one only):
    - 1 ☐ Whites
    - 2 ☐ Yellows
    - 3 ☐ Greens
    - 4 ☐ Blues
    - 5 ☐ Purples/Violets
    - 6 ☐ Reds/Oranges
    - 7 ☐ Browns/Tans
    - 8 ☐ Grays/Blacks
52. If This Victim Is a Missing Person or Unidentified Dead, Give a Detailed Description of Clothing: ____________
53. Victim's Residence (check one only):
    - 1 ☐ Single-Family Dwelling
    - 2 ☐ Multi-Family Dwelling
    - 3 ☐ Temporary or Transient Housing
    - 4 ☐ Motor Vehicle
    - 5 ☐ Street
    - 99 ☐ Unknown
54. Current Occupation(s): 1) ____________
    2) ____________



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III. OFFENDER INFORMATION

OFFENDER DEFINED. As used in this VICAP Crime Analysis Report, "offender" includes arrestees, perpetrators, or persons the investigator has reasonable cause to believe are responsible for the commission of the crime.

55. This Is Offender ______ (number) of ______ (total) Offender(s) in This Incident.
56. The Offender Is (check one only):
    - 1 ☐ Unknown—Not Seen (go to Item 85)
    - 2 ☐ Unknown—Seen
    - 3 ☐ Identified (named)—Not in Custody
    - 4 ☐ In Custody
    - 5 ☐ Deceased
57. Name: ____________ (last, first, middle)
58. Alias(es) (including maiden name and prior married names): ____________
59. Resident City: ____________ 60. State: ______ 61. ZIP: ______
62. Social Security Number: ______-______-______ 63. FBI Number: ______
64. Sex:
    - 1 ☐ Male
    - 2 ☐ Female
    - 99 ☐ Unknown
65. Race:
    - 1 ☐ Black
    - 2 ☐ Caucasian
    - 3 ☐ Hispanic
    - 4 ☐ Oriental/Asian
    - 5 ☐ Other
    - 99 ☐ Unknown
66. Date of Birth: ___/___/___ (mo) / (da) / (yr)
    - 99 ☐ Unknown
67. Age (or best estimate) at Time of Incident: ______ (years)
    - 99 ☐ Unknown
68. Height (or best estimate): ______ feet ______ inches (to ______ feet ______ inches)
    - 99 ☐ Unknown
69. Build (check one only):
    - 1 ☐ Small (thin)
    - 2 ☐ Medium (average)
    - 3 ☐ Large (stocky)
    - 99 ☐ Unknown
70. Hair Length (check one only):
    - 1 ☐ Bald or Shaved
    - 2 ☐ Shorter Than Collar Length
    - 3 ☐ Collar Length
    - 4 ☐ Shoulder Length
    - 5 ☐ Longer Than Shoulder Length
    - 99 ☐ Unknown
71. Hair Shade (check one only):
    - 1 ☐ Light
    - 2 ☐ Dark
    - 3 ☐ Neither 1 or 2 Above
    - 99 ☐ Unknown
72. Predominant Hair Color (check one only):
    - 1 ☐ Gray and/or White
    - 2 ☐ Blond
    - 3 ☐ Red
    - 4 ☐ Brown
    - 5 ☐ Black
    - 6 ☐ Other
    - 99 ☐ Unknown

73. Was Wearing Glasses:
1 ☐ Yes
2 ☐ No
99 ☐ Unknown

74. Facial Hair (check all that apply):
1 ☐ None
2 ☐ Mustache
3 ☐ Beard
4 ☐ Other
99 ☐ Unknown

75. Appeared Generally Well Groomed:
1 ☐ Yes
2 ☐ No
99 ☐ Unknown

76. Offender Wore a Disguise or Mask:
1 ☐ Yes
2 ☐ No
99 ☐ Unknown

SCARS AND/OR BIRTHMARKS

77. Noticeable Scars or Birthmarks (not tattoos):
1 ☐ Yes
2 ☐ No
99 ☐ Unknown

TATTOOS

78. Noticeable Tattoos:
1 ☐ Yes
2 ☐ No
99 ☐ Unknown

OUTSTANDING PHYSICAL FEATURES

79. Other Outstanding Physical Features of the Offender Not Reported Above (crossed eyes, noticeable limp, physical deformity, etc.):
1 ☐ Yes (describe): ____________________
2 ☐ No
99 ☐ Unknown

IV. IDENTIFIED OFFENDER INFORMATION

If you have an offender in custody or identified in this case, complete Items 80 through 84. Otherwise, go to Item 85.

OFFENDER BACKGROUND

80. Cities and States of Residence during Last 5 Years (exclude current city of residence):
1) ____________________
2) ____________________
3) ____________________
4) ____________________

81. List the States the Offender Has Visited during Last 5 Years (attach separate sheet if necessary):
1) ____________________
2) ____________________
3) ____________________
4) ____________________

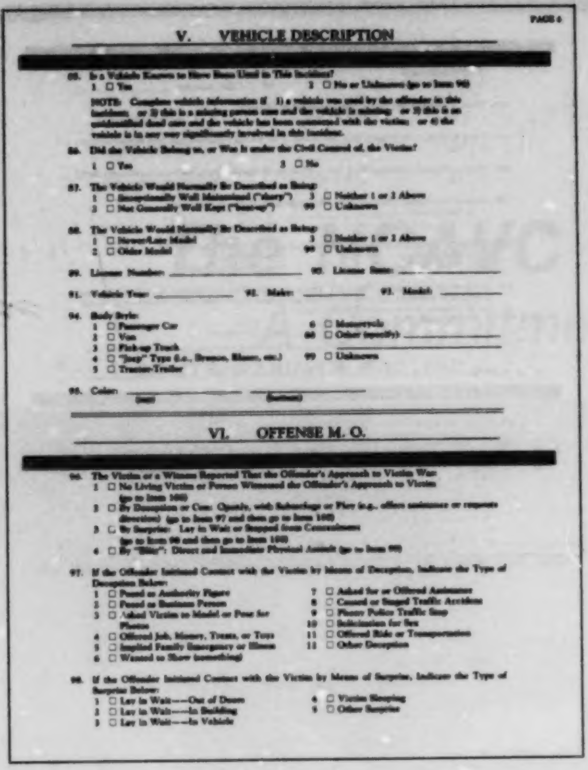
82. Foreign Countries Lived or Traveled in:
1) ____________________
2) ____________________
3) ____________________
4) ____________________

PROPERTY OF OTHERS

83. Offender Was in Possession of Property of Others (check all that apply):
1 ☐ Body Parts
2 ☐ Clothing
3 ☐ Credit Card(s), Checks, or other I.D.
4 ☐ Jewelry
5 ☐ Photo(s)
88 ☐ Other (specify): ____________________

OFFENDER'S ADMISSIONS

84. Offender Admits Other Similar Crime(s) of Violence:
1 ☐ Yes (attach details)
2 ☐ No



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V. VEHICLE DESCRIPTION

85. Is a Vehicle Known to Have Been Used in This Incident?
1 ☐ Yes   2 ☐ No or Unknown (go to Item 96)

NOTE: Complete vehicle information if 1) a vehicle was used by the offender in this incident; or 2) this is a missing person case and the vehicle is missing; or 3) this is an unidentified dead case and the vehicle has been connected with the victim; or 4) the vehicle is in any way significantly involved in this incident.

86. Did the Vehicle Belong to, or Was It under the Civil Control of, the Victim?
1 ☐ Yes   2 ☐ No

87. The Vehicle Would Normally Be Described as Being:
1 ☐ Exceptionally Well Maintained ("sharp")   3 ☐ Neither 1 or 2 Above
2 ☐ Not Generally Well Kept ("beat-up")   99 ☐ Unknown

88. The Vehicle Would Normally Be Described as Being:
1 ☐ Newer/Late Model   3 ☐ Neither 1 or 2 Above
2 ☐ Older Model   99 ☐ Unknown

89. License Number: ____________ 90. License State: ____________

91. Vehicle Year: ________ 92. Make: ________ 93. Model: ________

94. Body Style:
1 ☐ Passenger Car   6 ☐ Motorcycle
2 ☐ Van   88 ☐ Other (specify): ____________
3 ☐ Pick-up Truck
4 ☐ "Jeep" Type (i.e., Bronco, Blazer, etc.)   99 ☐ Unknown
5 ☐ Tractor-Trailer

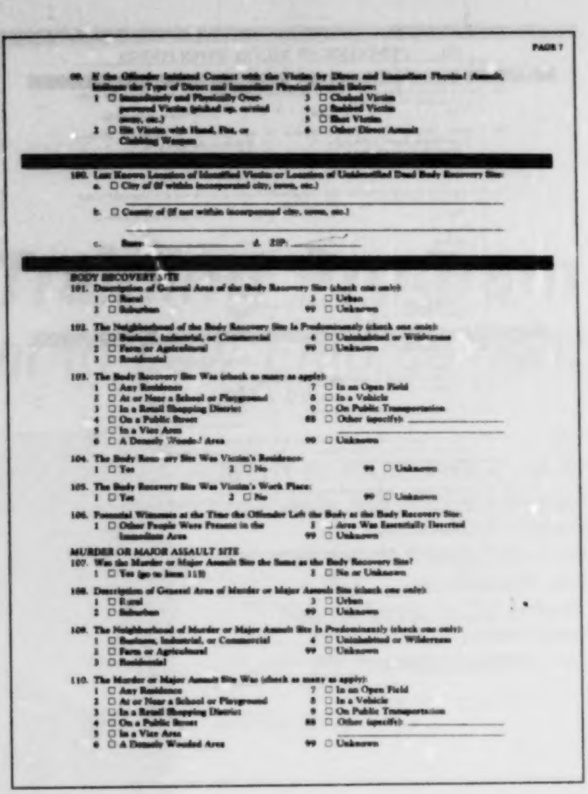
95. Color: ____________ ____________
(top) (bottom)

VI. OFFENSE M. O.

96. The Victim or a Witness Reported That the Offender's Approach to Victim Was:
1 ☐ No Living Victim or Person Witnessed the Offender's Approach to Victim (go to Item 100)
2 ☐ By Deception or Con: Openly, with Subterfuge or Ploy (e.g., offers assistance or requests direction) (go to Item 97 and then go to Item 100)
3 ☐ By Surprise: Lay in Wait or Stepped from Concealment (go to Item 98 and then go to Item 100)
4 ☐ By "Blitz": Direct and Immediate Physical Assault (go to Item 99)

97. If the Offender Initiated Contact with the Victim by Means of Deception, Indicate the Type of Deception Below:
1 ☐ Posed as Authority Figure   7 ☐ Asked for or Offered Assistance
2 ☐ Posed as Business Person   8 ☐ Caused or Staged Traffic Accident
3 ☐ Asked Victim to Model or Pose for Photos   9 ☐ Phony Police Traffic Stop
4 ☐ Offered Job, Money, Treats, or Toys   10 ☐ Solicitation for Sex
5 ☐ Implied Family Emergency or Illness   11 ☐ Offered Ride or Transportation
6 ☐ Wanted to Show (something)   12 ☐ Other Deception

98. If the Offender Initiated Contact with the Victim by Means of Surprise, Indicate the Type of Surprise Below:
1 ☐ Lay in Wait---Out of Doors   4 ☐ Victim Sleeping
2 ☐ Lay in Wait---In Building   5 ☐ Other Surprise
3 ☐ Lay in Wait---In Vehicle



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99. If the Offender Initiated Contact with the Victim by Direct and Immediate Physical Assault, Indicate the Type of Direct and Immediate Physical Assault Below:
1 ☐ Immediately and Physically Overpowered Victim (picked up, carried away, etc.)   3 ☐ Choked Victim
    4 ☐ Stabbed Victim
    5 ☐ Shot Victim
2 ☐ Hit Victim with Hand, Fist, or Clubbing Weapon   6 ☐ Other Direct Assault

100. Last Known Location of Identified Victim or Location of Unidentified Dead Body Recovery Site:
a. ☐ City of (if within incorporated city, town, etc.) ____________
b. ☐ County of (if not within incorporated city, town, etc.) ____________
c. State: ____________ d. ZIP: ____________

BODY RECOVERY SITE
101. Description of General Area of the Body Recovery Site (check one only):
1 ☐ Rural   3 ☐ Urban
2 ☐ Suburban   99 ☐ Unknown

102. The Neighborhood of the Body Recovery Site Is Predominantly (check one only):
1 ☐ Business, Industrial, or Commercial   4 ☐ Uninhabited or Wilderness
2 ☐ Farm or Agricultural   99 ☐ Unknown
3 ☐ Residential

103. The Body Recovery Site Was (check as many as apply):
1 ☐ Any Residence   7 ☐ In an Open Field
2 ☐ At or Near a School or Playground   8 ☐ In a Vehicle
3 ☐ In a Retail Shopping District   9 ☐ On Public Transportation
4 ☐ On a Public Street   88 ☐ Other (specify): ____________
5 ☐ In a Vice Area
6 ☐ A Densely Wooded Area   99 ☐ Unknown

104. The Body Recovery Site Was Victim's Residence:
1 ☐ Yes   2 ☐ No   99 ☐ Unknown

105. The Body Recovery Site Was Victim's Work Place:
1 ☐ Yes   2 ☐ No   99 ☐ Unknown

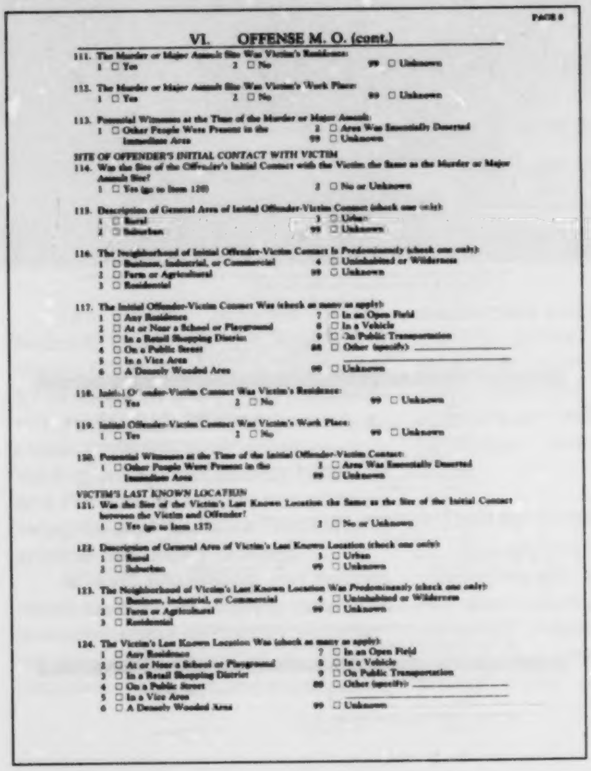
106. Potential Witnesses at the Time the Offender Left the Body at the Body Recovery Site:
1 ☐ Other People Were Present in the Immediate Area   2 ☐ Area Was Essentially Deserted
    99 ☐ Unknown

MURDER OR MAJOR ASSAULT SITE
107. Was the Murder or Major Assault Site the Same as the Body Recovery Site?
1 ☐ Yes (go to Item 111)   2 ☐ No or Unknown

108. Description of General Area of Murder or Major Assault Site (check one only):
1 ☐ Rural   3 ☐ Urban
2 ☐ Suburban   99 ☐ Unknown

109. The Neighborhood of Murder or Major Assault Site Is Predominantly (check one only):
1 ☐ Business, Industrial, or Commercial   4 ☐ Uninhabited or Wilderness
2 ☐ Farm or Agricultural   99 ☐ Unknown
3 ☐ Residential

110. The Murder or Major Assault Site Was (check as many as apply):
1 ☐ Any Residence   7 ☐ In an Open Field
2 ☐ At or Near a School or Playground   8 ☐ In a Vehicle
3 ☐ In a Retail Shopping District   9 ☐ On Public Transportation
4 ☐ On a Public Street   88 ☐ Other (specify): ____________
5 ☐ In a Vice Area
6 ☐ A Densely Wooded Area   99 ☐ Unknown



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VI. OFFENSE M. O. (cont.)

111. The Murder or Major Assault Site Was Victim's Residence:
1 ☐ Yes   2 ☐ No   99 ☐ Unknown

112. The Murder or Major Assault Site Was Victim's Work Place:
1 ☐ Yes   2 ☐ No   99 ☐ Unknown

113. Potential Witnesses at the Time of the Murder or Major Assault:
1 ☐ Other People Were Present in the Immediate Area   2 ☐ Area Was Essentially Deserted
    99 ☐ Unknown

SITE OF OFFENDER'S INITIAL CONTACT WITH VICTIM
114. Was the Site of the Offender's Initial Contact with the Victim the Same as the Murder or Major Assault Site?
1 ☐ Yes (go to Item 120)   2 ☐ No or Unknown

115. Description of General Area of Initial Offender-Victim Contact (check one only):
1 ☐ Rural   3 ☐ Urban
2 ☐ Suburban   99 ☐ Unknown

116. The Neighborhood of Initial Offender-Victim Contact Is Predominantly (check one only):
1 ☐ Business, Industrial, or Commercial   4 ☐ Uninhabited or Wilderness
2 ☐ Farm or Agricultural   99 ☐ Unknown
3 ☐ Residential

117. The Initial Offender-Victim Contact Was (check as many as apply):
1 ☐ Any Residence   7 ☐ In an Open Field
2 ☐ At or Near a School or Playground   8 ☐ In a Vehicle
3 ☐ In a Retail Shopping District   9 ☐ On Public Transportation
4 ☐ On a Public Street   88 ☐ Other (specify): ____________
5 ☐ In a Vice Area
6 ☐ A Densely Wooded Area   99 ☐ Unknown

118. Initial Offender-Victim Contact Was Victim's Residence:
1 ☐ Yes   2 ☐ No   99 ☐ Unknown

119. Initial Offender-Victim Contact Was Victim's Work Place:
1 ☐ Yes   2 ☐ No   99 ☐ Unknown

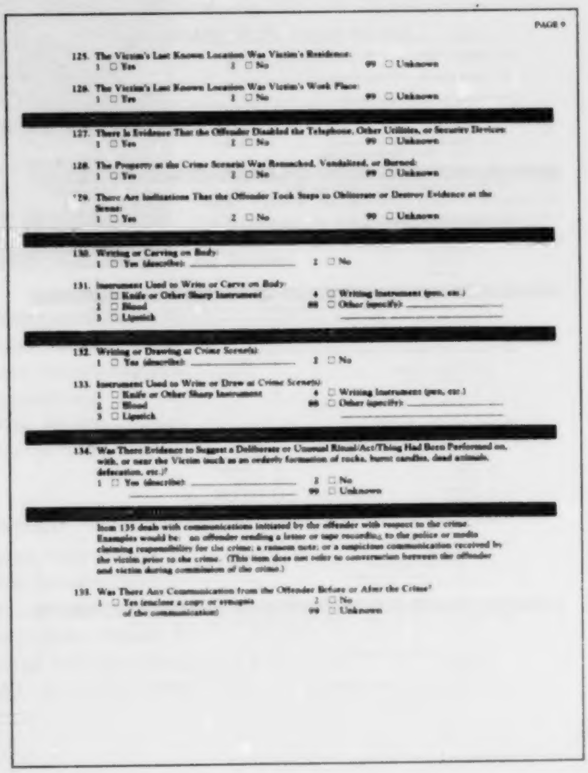
120. Potential Witnesses at the Time of the Initial Offender-Victim Contact:
1 ☐ Other People Were Present in the Immediate Area   2 ☐ Area Was Essentially Deserted
    99 ☐ Unknown

VICTIM'S LAST KNOWN LOCATION
121. Was the Site of the Victim's Last Known Location the Same as the Site of the Initial Contact between the Victim and Offender?
1 ☐ Yes (go to Item 127)   2 ☐ No or Unknown

122. Description of General Area of Victim's Last Known Location (check one only):
1 ☐ Rural   3 ☐ Urban
2 ☐ Suburban   99 ☐ Unknown

123. The Neighborhood of Victim's Last Known Location Was Predominantly (check one only):
1 ☐ Business, Industrial, or Commercial   4 ☐ Uninhabited or Wilderness
2 ☐ Farm or Agricultural   99 ☐ Unknown
3 ☐ Residential

124. The Victim's Last Known Location Was (check as many as apply):
1 ☐ Any Residence   7 ☐ In an Open Field
2 ☐ At or Near a School or Playground   8 ☐ In a Vehicle
3 ☐ In a Retail Shopping District   9 ☐ On Public Transportation
4 ☐ On a Public Street   88 ☐ Other (specify): ____________
5 ☐ In a Vice Area
6 ☐ A Densely Wooded Area   99 ☐ Unknown



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125. The Victim's Last Known Location Was Victim's Residence:
1 ☐ Yes   2 ☐ No   99 ☐ Unknown

126. The Victim's Last Known Location Was Victim's Work Place:
1 ☐ Yes   2 ☐ No   99 ☐ Unknown

127. There Is Evidence That the Offender Disabled the Telephone, Other Utilities, or Security Devices:
1 ☐ Yes   2 ☐ No   99 ☐ Unknown

128. The Property at the Crime Scene(s) Was Ransacked, Vandalized, or Burned:
1 ☐ Yes   2 ☐ No   99 ☐ Unknown

129. There Are Indications That the Offender Took Steps to Obliterate or Destroy Evidence at the Scene:
1 ☐ Yes   2 ☐ No   99 ☐ Unknown

130. Writing or Carving on Body:
1 ☐ Yes (describe): ____________   2 ☐ No

131. Instrument Used to Write or Carve on Body:
1 ☐ Knife or Other Sharp Instrument   4 ☐ Writing Instrument (pen, etc.)
2 ☐ Blood   88 ☐ Other (specify): ____________
3 ☐ Lipstick

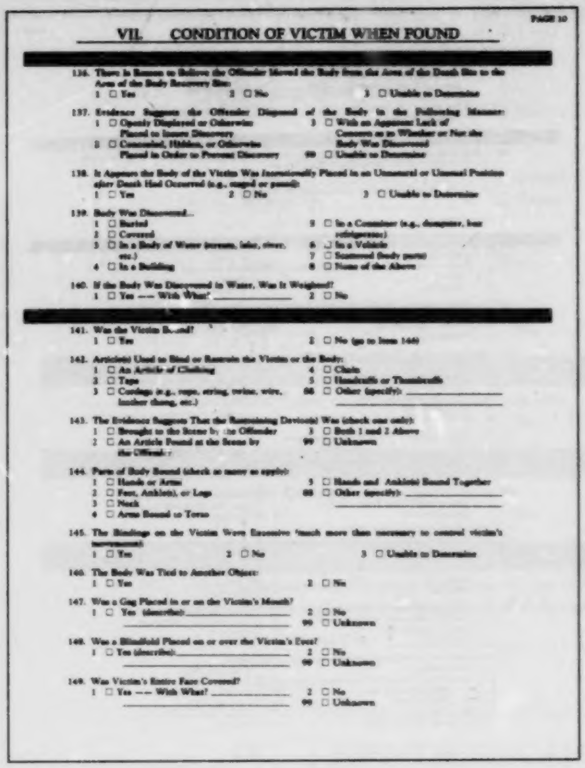
132. Writing or Drawing at Crime Scene(s):
1 ☐ Yes (describe): ____________   2 ☐ No

133. Instrument Used to Write or Draw at Crime Scene(s):
1 ☐ Knife or Other Sharp Instrument   4 ☐ Writing Instrument (pen, etc.)
2 ☐ Blood   88 ☐ Other (specify): ____________
3 ☐ Lipstick

134. Was There Evidence to Suggest a Deliberate or Unusual Ritual/Act/Thing Had Been Performed on, with, or near the Victim (such as an orderly formation of rocks, burnt candles, dead animals, defecation, etc.)?
1 ☐ Yes (describe): ____________   2 ☐ No
    99 ☐ Unknown

Item 135 deals with communications initiated by the offender with respect to the crime. Examples would be: an offender sending a letter or tape recording to the police or media claiming responsibility for the crime; a ransom note; or a suspicious communication received by the victim prior to the crime. (This item does not refer to conversation between the offender and victim during commission of the crime.)

135. Was There Any Communication from the Offender Before or After the Crime?
1 ☐ Yes (enclose a copy or synopsis of the communication)   2 ☐ No
    99 ☐ Unknown



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VII. CONDITION OF VICTIM WHEN FOUND

136. There Is Reason to Believe the Offender Moved the Body from the Area of the Death Site to the Area of the Body Recovery Site:
1 ☐ Yes
2 ☐ No
3 ☐ Unable to Determine

137. Evidence Suggests the Offender Disposed of the Body in the Following Manner:
1 ☐ Openly Displayed or Otherwise Placed to Insure Discovery
2 ☐ Concealed, Hidden, or Otherwise Placed in Order to Prevent Discovery
3 ☐ With an Apparent Lack of Concern as to Whether or Not the Body Was Discovered
99 ☐ Unable to Determine

138. It Appears the Body of the Victim Was *Intentionally* Placed in an Unnatural or Unusual Position after Death Had Occurred (e.g., staged or posed):
1 ☐ Yes
2 ☐ No
3 ☐ Unable to Determine

139. Body Was Discovered...
1 ☐ Buried
2 ☐ Covered
3 ☐ In a Body of Water (stream, lake, river, etc.)
4 ☐ In a Building
5 ☐ In a Container (e.g., dumpster, box refrigerator)
6 ☐ In a Vehicle
7 ☐ Scattered (body parts)
8 ☐ None of the Above

140. If the Body Was Discovered in Water, Was It Weighted?
1 ☐ Yes — With What? ____________
2 ☐ No

141. Was the Victim Bound?
1 ☐ Yes
2 ☐ No (go to Item 146)

142. Article(s) Used to Bind or Restrain the Victim or the Body:
1 ☐ An Article of Clothing
2 ☐ Tape
3 ☐ Cordage (e.g., rope, string, twine, wire, leather thong, etc.)
4 ☐ Chain
5 ☐ Handcuffs or Thumbcuffs
88 ☐ Other (specify): ____________

143. The Evidence Suggests That the Restraining Device(s) Was (check one only):
1 ☐ Brought to the Scene by the Offender
2 ☐ An Article Found at the Scene by the Offender
3 ☐ Both 1 and 2 Above
99 ☐ Unknown

144. Parts of Body Bound (check as many as apply):
1 ☐ Hands or Arms
2 ☐ Feet, Ankle(s), or Legs
3 ☐ Neck
4 ☐ Arms Bound to Torso
5 ☐ Hands and Ankle(s) Bound Together
88 ☐ Other (specify): ____________

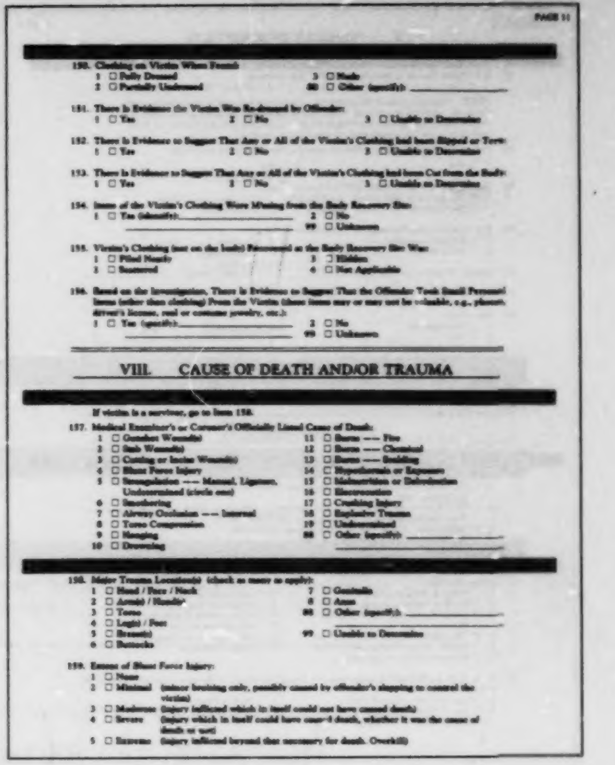
145. The Bindings on the Victim Were Excessive (much more than necessary to control victim's movement):
1 ☐ Yes
2 ☐ No
3 ☐ Unable to Determine

146. The Body Was Tied to Another Object:
1 ☐ Yes
2 ☐ No

147. Was a Gag Placed in or on the Victim's Mouth?
1 ☐ Yes (describe): ____________
2 ☐ No
99 ☐ Unknown

148. Was a Blindfold Placed on or over the Victim's Eyes?
1 ☐ Yes (describe): ____________
2 ☐ No
99 ☐ Unknown

149. Was Victim's Entire Face Covered?
1 ☐ Yes — With What? ____________
2 ☐ No
99 ☐ Unknown



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150. Clothing on Victim When Found:
1 ☐ Fully Dressed
2 ☐ Partially Undressed
3 ☐ Nude
88 ☐ Other (specify): ____________

151. There Is Evidence the Victim Was Re-dressed by Offender:
1 ☐ Yes
2 ☐ No
3 ☐ Unable to Determine

152. There Is Evidence to Suggest That Any or All of the Victim's Clothing had been Ripped or Torn:
1 ☐ Yes
2 ☐ No
3 ☐ Unable to Determine

153. There Is Evidence to Suggest That Any or All of the Victim's Clothing had been Cut from the Body:
1 ☐ Yes
2 ☐ No
3 ☐ Unable to Determine

154. Items of the Victim's Clothing Were Missing from the Body Recovery Site:
1 ☐ Yes (identify): ____________
2 ☐ No
99 ☐ Unknown

155. Victim's Clothing (not on the body) Recovered at the Body Recovery Site Was:
1 ☐ Piled Neatly
2 ☐ Scattered
3 ☐ Hidden
4 ☐ Not Applicable

156. Based on the Investigation, There Is Evidence to Suggest That the Offender Took Small Personal Items (other than clothing) From the Victim (these items may or may not be valuable, e.g., photos, driver's license, real or costume jewelry, etc.):
1 ☐ Yes (specify): ____________
2 ☐ No
99 ☐ Unknown

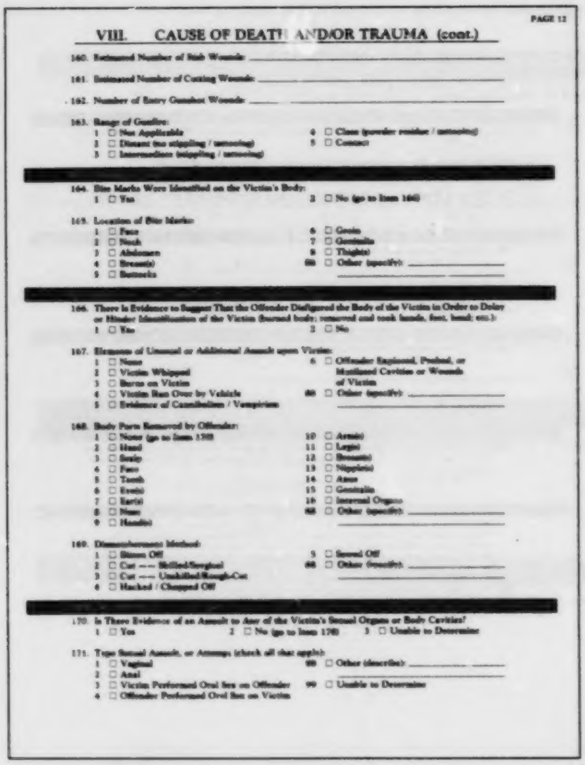
VIII. CAUSE OF DEATH AND/OR TRAUMA

If victim is a survivor, go to Item 158.

157. Medical Examiner's or Coroner's Officially Listed Cause of Death:
1 ☐ Gunshot Wound(s)
2 ☐ Stab Wound(s)
3 ☐ Cutting or Incise Wound(s)
4 ☐ Blunt Force Injury
5 ☐ Strangulation — Manual, Ligature, Undetermined (circle one)
6 ☐ Smothering
7 ☐ Airway Occlusion — Internal
8 ☐ Torso Compression
9 ☐ Hanging
10 ☐ Drowning
11 ☐ Burns — Fire
12 ☐ Burns — Chemical
13 ☐ Burns — Scalding
14 ☐ Hypothermia or Exposure
15 ☐ Malnutrition or Dehydration
16 ☐ Electrocution
17 ☐ Crushing Injury
18 ☐ Explosive Trauma
19 ☐ Undetermined
88 ☐ Other (specify): ____________

158. Major Trauma Location(s) (check as many as apply):
1 ☐ Head / Face / Neck
2 ☐ Arm(s) / Hand(s)
3 ☐ Torso
4 ☐ Leg(s) / Feet
5 ☐ Breast(s)
6 ☐ Buttocks
7 ☐ Genitalia
8 ☐ Anus
88 ☐ Other (specify): ____________
99 ☐ Unable to Determine

159. Extent of Blunt Force Injury:
1 ☐ None
2 ☐ Minimal (minor bruising only, possibly caused by offender's slapping to control the victim)
3 ☐ Moderate (injury inflicted which in itself could not have caused death)
4 ☐ Severe (injury which in itself could have caused death, whether it was the cause of death or not)
5 ☐ Extreme (injury inflicted beyond that necessary for death. Overkill)



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VIII. CAUSE OF DEATH AND/OR TRAUMA (cont.)

160. Estimated Number of Stab Wounds: ____________

161. Estimated Number of Cutting Wounds: ____________

162. Number of Entry Gunshot Wounds: ____________

163. Range of Gunfire:
1 ☐ Not Applicable
2 ☐ Distant (no stippling / tattooing)
3 ☐ Intermediate (stippling / tattooing)
4 ☐ Close (powder residue / tattooing)
5 ☐ Contact

164. Bite Marks Were Identified on the Victim's Body:
1 ☐ Yes
2 ☐ No (go to Item 166)

165. Location of Bite Marks:
1 ☐ Face
2 ☐ Neck
3 ☐ Abdomen
4 ☐ Breast(s)
5 ☐ Buttocks
6 ☐ Groin
7 ☐ Genitalia
8 ☐ Thigh(s)
88 ☐ Other (specify): ____________

166. There Is Evidence to Suggest That the Offender Disfigured the Body of the Victim in Order to Delay or Hinder Identification of the Victim (burned body; removed and took hands, feet, head; etc.):
1 ☐ Yes
2 ☐ No

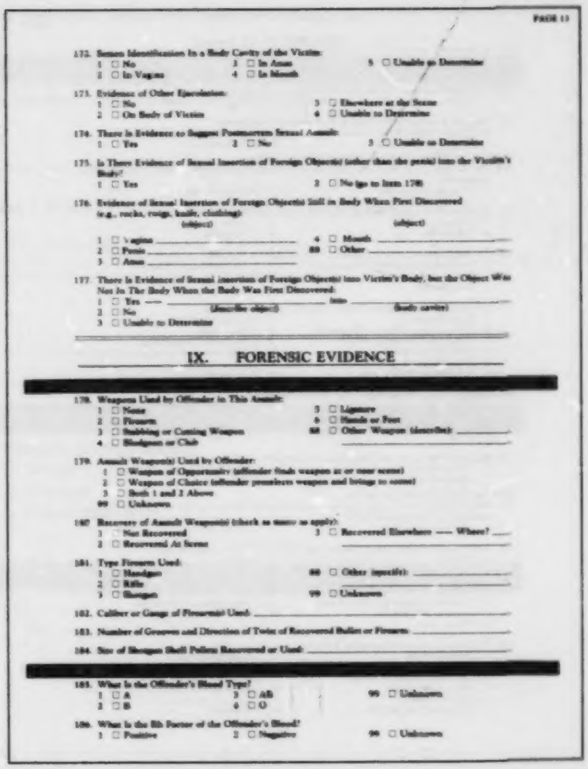
167. Elements of Unusual or Additional Assault upon Victim:
1 ☐ None
2 ☐ Victim Whipped
3 ☐ Burns on Victim
4 ☐ Victim Run Over by Vehicle
5 ☐ Evidence of Cannibalism / Vampirism
6 ☐ Offender Explored, Probed, or Mutilated Cavities or Wounds of Victim
88 ☐ Other (specify): ____________

168. Body Parts Removed by Offender:
1 ☐ None (go to Item 170)
2 ☐ Head
3 ☐ Scalp
4 ☐ Face
5 ☐ Teeth
6 ☐ Eye(s)
7 ☐ Ear(s)
8 ☐ Nose
9 ☐ Hand(s)
10 ☐ Arm(s)
11 ☐ Leg(s)
12 ☐ Breast(s)
13 ☐ Nipple(s)
14 ☐ Anus
15 ☐ Genitalia
16 ☐ Internal Organs
88 ☐ Other (specify): ____________

169. Dismemberment Method:
1 ☐ Bitten Off
2 ☐ Cut — Skilled/Surgical
3 ☐ Cut — Unskilled/Rough-Cut
4 ☐ Hacked / Chopped Off
5 ☐ Sawed Off
88 ☐ Other (specify): ____________

170. Is There Evidence of an Assault to Any of the Victim's Sexual Organs or Body Cavities?
1 ☐ Yes
2 ☐ No (go to Item 178)
3 ☐ Unable to Determine

171. Type Sexual Assault, or Attempt (check all that apply):
1 ☐ Vaginal
2 ☐ Anal
3 ☐ Victim Performed Oral Sex on Offender
4 ☐ Offender Performed Oral Sex on Victim
88 ☐ Other (describe): ____________
99 ☐ Unable to Determine



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172. Semen Identification In a Body Cavity of the Victim:
1 ☐ No
2 ☐ In Vagina
3 ☐ In Anus
4 ☐ In Mouth
5 ☐ Unable to Determine

173. Evidence of Other Ejaculation:
1 ☐ No
2 ☐ On Body of Victim
3 ☐ Elsewhere at the Scene
4 ☐ Unable to Determine

174. There Is Evidence to Suggest Postmortem Sexual Assault:
1 ☐ Yes
2 ☐ No
3 ☐ Unable to Determine

175. Is There Evidence of Sexual Insertion of Foreign Object(s) (other than the penis) into the Victim's Body?
1 ☐ Yes
2 ☐ No (go to Item 178)

176. Evidence of Sexual Insertion of Foreign Object(s) Still in Body When First Discovered (e.g., rocks, twigs, knife, clothing):
(object) (object)
1 ☐ Vagina ____________
2 ☐ Penis ____________
3 ☐ Anus ____________
4 ☐ Mouth ____________
88 ☐ Other ____________

177. There Is Evidence of Sexual insertion of Foreign Object(s) into Victim's Body, but the Object Was Not *In The Body* When the Body Was First Discovered:
1 ☐ Yes — ____________ into ____________
(describe object) (body cavity)
2 ☐ No
3 ☐ Unable to Determine

IX. FORENSIC EVIDENCE

178. Weapons Used by Offender in This Assault:
1 ☐ None
2 ☐ Firearm
3 ☐ Stabbing or Cutting Weapon
4 ☐ Bludgeon or Club
5 ☐ Ligature
6 ☐ Hands or Feet
88 ☐ Other Weapon (describe): ____________

179. Assault Weapon(s) Used by Offender:
1 ☐ Weapon of Opportunity (offender finds weapon at or near scene)
2 ☐ Weapon of Choice (offender preselects weapon and brings to scene)
3 ☐ Both 1 and 2 Above
99 ☐ Unknown

180. Recovery of Assault Weapon(s) (check as many as apply):
1 ☐ Not Recovered
2 ☐ Recovered At Scene
3 ☐ Recovered Elsewhere — Where? ____________

181. Type Firearm Used:
1 ☐ Handgun
2 ☐ Rifle
3 ☐ Shotgun
88 ☐ Other (specify): ____________
99 ☐ Unknown

182. Caliber or Gauge of Firearm(s) Used: ____________

183. Number of Grooves and Direction of Twist of Recovered Bullet or Firearm: ____________

184. Size of Shotgun Shell Pellets Recovered or Used: ____________

185. What Is the Offender's Blood Type?
1 ☐ A
2 ☐ B
3 ☐ AB
4 ☐ O
99 ☐ Unknown

186. What Is the Rh Factor of the Offender's Blood?
1 ☐ Positive
2 ☐ Negative
99 ☐ Unknown

The NCAVC Training Program

A Commitment to Law Enforcement

By
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Training Program
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Det. Sgt. Kevin Mullen, Boston PD, 1986 Police Fellow, confers with SA Ellen Kearns, Boston FBI Profile Coordinator, in a profile workshop during the recent Police Fellowship Retraining Seminar at the FBI Academy.

The training program of the National Center for the Analysis of Violent Crime (NCAVC) is responsible for all education and training associated with the NCAVC. This responsibility includes providing guest speakers, conducting specialized training for police and FBI Special Agents, and administering the NCAVC Police Fellowship in criminal personality profiling.

NCAVC educational and training efforts are directed primarily toward the law enforcement community. However, we are also interested in sharing whatever knowledge and expertise we may possess with other members of the criminal justice system and those disciplines which have historically provided invaluable assistance to law enforcement (mental health, victim advocates, and various academic fields).

A Training Commitment

The NCAVC was established to provide the law enforcement community with a clearinghouse and resource center for unsolved violent crimes. It does so by collecting and analyzing violent crime data and providing

Special Agent Hazelwood

innovative investigative assistance, such as criminal personality profiling and the Violent Criminal Apprehension Program (VICAP). A natural extension of this assistance is to train law enforcement officers in, or at least acquaint them with, the application of behavioral science techniques to the investigation of violent crime. The NCAVC training program accomplishes this task in four ways: 1) Field police schools, 2) FBI Academy courses, 3) speaking engagements, and 4) NCAVC police fellowships.

Field Police Schools

Members of the NCAVC and specially trained Agents assigned to FBI field offices provide cost-free training in violent crime investigative methodology for law enforcement agencies throughout the United States. Such courses are 1 to 5 days in length and are conducted at sites selected by the requesting agency.

FBI Academy Courses

Courses 3 to 14 days in length are conducted at the FBI Academy and include speakers from a variety of disciplines. Officers invited to attend the courses do so at no expense to themselves or their departments.

Speaking Engagements

The NCAVC provides speakers for law enforcement and other professional organizational meetings or conferences. Since June 1985, NCAVC speakers have participated in national meetings of the International Association of Chiefs of Police, the National Sheriff's Association, the Harvard Associates in Police Science, and the FBI National Academy Associates, to name a few. The NCAVC training program has also provided guest lecturers for courses offered at the Southern Police Institute, the Northwestern Traffic Institute, the Delinquency Control Institute, the Armed Forces Institute of Pathology, and the Federal Law Enforcement Training Center.

Police Fellowship Program

The NCAVC offers a 1-year fellowship in criminal personality profiling at the FBI Academy to selected officers. All expenses except salary and benefits are borne by the FBI. This program is discussed more fully below.

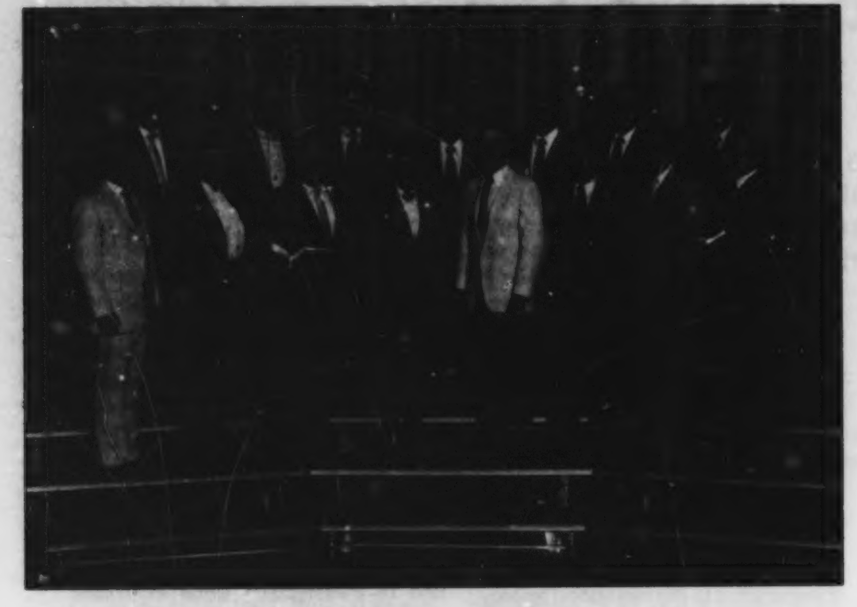
The NCAVC Police Fellowship

Developmental History

The police fellowship in criminal personality profiling predated the establishment of the NCAVC and evolved from FBI Director William H. Webster's mandate to provide intensive training on the behavioral analysis of violent crime to law enforcement agencies. It was determined that a 9- to 12-month program would be necessary to train and provide sufficient hands-on profiling experience to individuals who could then be expected to provide behavioral science expertise to their departments.

In 1982, at the direction of Assistant Director James D. McKenzie, Roger L. Depue, current NCAVC Administrator, asked several large police agencies if they would be interested in participating in such a program. The response was overwhelmingly positive. Assistant Director James D. McKenzie

"[Our commitment] is to train law enforcement officers in, or at least acquaint them with, the application of behavioral science techniques to the investigation of violent crimes."



Police Fellowship Recipients 1984-87
Top row (left to right): Thomas Cronin, Kevin Mullen, Robert Gebo, William Bradway, Steven Conlon, Edward Richards, Ralph Stone. Bottom row (left to right): Thomas Brennan, Joël Kohout, Eric Witzig, Dayle Hinman, Denis Cremins, Sam Bowerman, Carlos Avila, Raymond Pierce.

and Executive Assistant Director John E. Otto enthusiastically endorsed the newly designed fellowship program and recommended it to Director Webster, who quickly approved the program.

In September 1983, the Baltimore County, MD, Police Department was invited to participate in the fellowship, and in January 1984, Det. Sam Bowerman became the first police fellow. The number of fellowships offered was increased to four in January 1985. The 1985 fellows were Det. Denis Cremins of the Los Angeles Police Department, Det. Raymond Pierce of the New York City Police Department, Sgt. Edward Richards of the Texas Department of Public Safety, and Det. Eric Witzig of the Metropolitan Police Department, Washington, DC. Six fellowships were offered in 1986. The officers participating are Det. Sgt. William Bradway of the Michigan State Police, Agent Steven Conlon of the Iowa Division of Criminal Investigation, Lt. Thomas Cronin of the Chicago Police Department, Det. Robert Gebo of the Seattle Police Department, Agent Dayle Hinman of the Florida Department of Law Enforcement, and Det. Sgt. Kevin Mullen of the Boston Police Department. Recipients of the 1987 fellowships are Sgt. Carlos Avila of the Los Angeles Sheriff's Department, Special Agent Joël Kohout of the Minnesota Bureau of Investigation, Cpl. Thomas Brennan of the Pennsylvania State Police, and Special Agent Ralph Stone of the Georgia Bureau of Investigation.

Selection Criteria

Agencies invited to nominate an officer for participation in the fellowship are chosen based on the number of sworn officers in the agency, the size of the population served, the amount of violent crime committed within the agency's jurisdictional area, and the agency's willingness to allow the participant to provide behavioral science assistance to neighboring departments upon his/her return.

The NCAVC has set the following criteria for participants in the fellowship. The participant must:

1) Be a sworn law enforcement officer,
2) Have an outstanding investigative record,
3) Possess a bachelor's degree, preferably in the behavioral sciences,
4) Have proven abilities to address groups and articulate thoughts in writing,
5) Have a minimum of 3 years' experience in the investigation of major cases,
6) Be held in high esteem by fellow officers,
7) Agree to conduct crime analysis and prepare profiles for at least 3 years upon completion of the fellowship,
8) Be in excellent physical condition and be proportionate in height and weight, and
9) Agree to a complete background investigation by the FBI.

". . . since [June 1985], over 3,500 hours of training have been provided to more than 40,000 people . . . at more than 400 locations throughout the United States, Canada, Europe, and the Caribbean."

Selection Process

The nominees are selected by their respective departments subject to final approval by the FBI. Many departments have added selection criteria to those items required by the NCAVC. The NCAVC does not participate in the selection process, unless requested to do so by the nominating agency. At the request of the nominating agency, members of the NCAVC will provide a briefing on the fellowship to department leaders and individuals who may wish to apply for the program.

Instructional Program

The NCAVC Police Fellowship consists of an academic phase and an application phase. During the first 3 months of the fellowship, the officers participate in educational and training courses at the FBI Academy, as well as elsewhere. The officers attend courses of instruction at the University of Virginia, the Armed Forces Institute of Pathology, and various police academies. Courses conducted at the FBI Academy include homicide and rape investigation, sexual exploitation of children, abnormal psychology, equivocal death evaluation, criminal personality profiling, and a myriad of other topics.

Although the police fellows are acquainted with the concept of criminal personality profiling during the first 3 months of the fellowship and do sit in on case consultations with investigative agencies, they are not assigned cases for analysis and profiling. The last 6-9 months of the fellowship are devoted primarily to developing the analytical and profiling skills of the participants. In this phase of the program, they are assigned cases for analysis and profiling jointly with a more-experienced NCAVC profiler. All cases assigned to the police fellows are analyzed in group consultation. Such a group typically includes at least one NCAVC profiler, all police fellows, and frequently Dr. James Luke, consulting forensic pathologist. The case is presented to the group by the responsible police fellow and is then discussed extensively. The consultation groups operate very much like "think tanks" in that ideas are surfaced, debated, and discarded or adopted. This process is invaluable to the novice profiler and gives him/her the benefit of the experience and thoughts of others. Following the group consultation, the officer prepares a written profile for review by an NCAVC profiler and eventual dissemination to the requesting agency.

In addition to analyzing cases and preparing criminal personality profiles, the police fellows represent the NCAVC through speaking engagements, participation in research interviews of incarcerated violent offenders, and involvement in on-site major case consultation with other NCAVC members.

Obviously, the training received during the fellowship is extensive and time consuming, involving a substantial investment on the part of the FBI and the participating agencies. However, there are individuals who commercially conduct 2- to 5-day courses on profiling and advertise that attendees will be able to prepare profiles upon completion of the course. Experience has demonstrated that the length of the NCAVC fellowship is not an unrealistic amount of time for an individual to study in order to become proficient in the art of profiling.

Conclusion

The NCAVC became operational in June 1985, and since that time, over 3,500 hours of training have been provided to more than 40,000 people representing the disciplines mentioned earlier in this article. This training has taken place at more than 400 locations throughout the United States, Canada, Europe, and the Caribbean. It was conducted by members of the NCAVC and Special Agent profile coordinators assigned to field offices of the FBI. These efforts serve as an example of the effectiveness of the NCAVC training program in disseminating information of investigative value in violent crime matters. They also serve to demonstrate the commitment of the FBI to its training mission in the law enforcement community.

Automated Crime Profiling

". . . experts in criminal personality profiling are taking advantage of the existing technology of artificial intelligence . . . to capture the elusive decisionmaking rules associated with the profiling of serial violent criminals."

By
DAVID J. ICOVE, Ph.D., P.E.
Senior Systems Analyst
Behavioral Science Investigative Support Unit
National Center for the Analysis of Violent Crime
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Quantico, VA

In the fall of 1983, Special Agents from the FBI's Behavioral Science Unit constructed a criminal personality profile describing an individual who could have been responsible for a series of fires at religious homes and houses of worship that summer in a posh New England community. The profile was prepared at the request of the community's police department, which later discovered that the FBI's profile not only accurately described the suspect in detail but also pinpointed his residence, based upon a series of intricate computer calculations using artificial intelligence technology. The suspect later confessed to the crimes.

This pioneering use of artificial intelligence technology in crime analysis and criminal personality profiling provided the groundwork for the present automation efforts at the FBI's National Center for the Analysis of Violent Crime (NCAVC).[1] In an active project at the NCAVC, experts in criminal personality profiling are taking advantage of the existing technology of artificial intelligence, or AI as it is known to its users, to capture the elusive decisionmaking rules associated with the profiling of serial violent criminals.

This article is an overview of the ongoing research and development efforts by the NCAVC to automate the criminal personality profiling process. Future articles are planned to advise law enforcement researchers and investigators as to the success of this exciting and thought-provoking technology.

Violent Crime Model

The relationship of AI to the profiling process is best described using the "Violent Crime Systems Analysis Model." (See fig. 1.) This model was developed during the conceptualization and development of the NCAVC computer systems and traces the philosophical activities involved with the detection, prediction, and prevention of violent crime.

The model is divided into *reactive* and *proactive* investigative strategies. Reactive strategies include crime scene investigative support during immediate response to incidents, while proactive strategies explore effective anti-crime programs to both deter and apprehend offenders.

Briefly, the model emphasizes the reporting of violent crimes (step 1) to the NCAVC for crime pattern analysis and classification. This information may come from written media accounts (step 2), crime scene processing (step 3), VICAP crime reports (step 4), or violent crime research findings (step 5). Crime pattern analysis (step 6) can determine if any case trends are detected in the profiled incident that have existed in the past, predict the probability of the occurrence of future incidents, and check for the possible identification of prior known/unknown criminal offenders based upon their past methods of operation.

Crime pattern recognition analysis can also classify incidents into naturally occurring groups, such as the type of

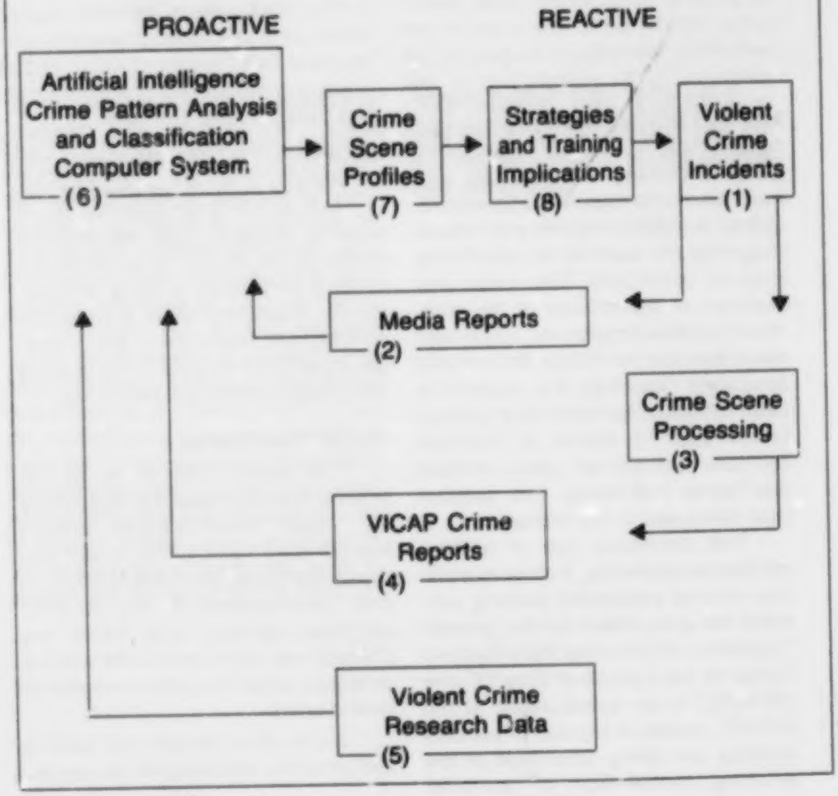
Dr. Icove

crime, motive, or temporal conditions. Furthermore, pattern analysis can reveal multidimensional trends and profiles in the crime data which in the past have gone undetected.

Based upon prior profiling experiences in combating violent crimes (step 7), effective prevention strategies are documented for future operational and training use (step 8). Using historical information, actual probabilities of success can be assigned to the suggestions of specific, proven prevention strategies.

The use of effective crime prevention strategies will minimize the risk of future violent crime incidents. Many strategies include operational, personnel, and physical security programs. However, once an incident occurs, the effective case management of the investigation must be carried out. The violent crime investigator at the scene summarizes the incident and submits a VICAP report. The feedback loop is then completed with an inquiry into the model of the encoded case data.

Figure 1 The Violent Crime System Analysis Model


PROACTIVE
REACTIVE
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"Computer technology is also necessary to support ongoing behavioral science research efforts."

Several computer systems presently serve the needs of the NCAVC in support of the VICAP, profiling and consultation, and research programs. The computers are located at both Quantico, VA, and Washington, DC.

VICAP

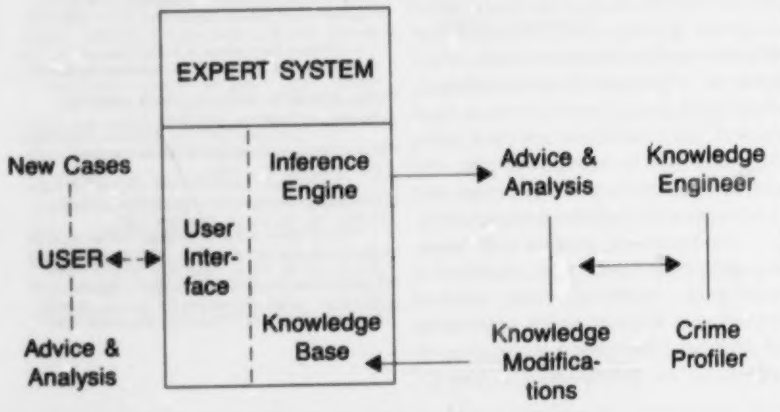
The Violent Criminal Apprehension Program (VICAP) computer system is located at FBI Headquarters in Washington, DC, and stores information on unsolved homicide-related violent crimes reported to the NCAVC. VICAP crime reports are entered on-line from the NCAVC at Quantico, using a secure telecommunications network.

When a new case is entered, the VICAP computer system simultaneously compares and contrasts over 100 selected modus operandi (MO) categories of that case with all other cases stored in the data base. After overnight processing, a printed computer report is returned to the VICAP crime analyst handling the case. This report lists, in rank order, the top 10 "matches" in the violent crime databank; that is, the 10 cases that were most similar to the new case. This crime pattern analysis technique, called template pattern matching, was specifically designed for VICAP and programmed by the FBI's Technical Services Division. The VICAP computer system also produces selected management information system reports which monitor case activity geographically, with hope that it will eventually trace the travels of serial violent criminals across the United States.

Profiling

The profiling and consultation program uses a collection of crime pattern recognition computer programs on mini- and micro-computers at the NCAVC's offices to detect and predict the behavior of violent criminals. The Arson Information Management System (AIMS) is a crime pattern analysis computer program used at the NCAVC which has enabled staff members to predict accurately the times, dates, and locations of future incidents, as well as the most probable residence of suspects.[2]

Figure 2 A schematic diagram of the NCAVC's Artificial Intelligence Knowledge-Based Expert System



Computer technology is also necessary to support ongoing behavioral science research efforts. NCAVC staff members are encouraged to perform and publish research studies on all aspects of violent crime and rely upon computers at Quantico for their support. Some research projects include the use of portable computers carried into the field.

Artificial Intelligence Project

Using the insight and experience gained with VICAP and AIMS computer technology, the NCAVC staff is now developing a comprehensive AI knowledge-based expert system which will assist users of the NCAVC computer system in tracking and predicting violent crimes. Knowledge-based expert systems have proven effective in applying knowledge to solve problems that ordinarily require human intelligence.[3] Figure 2 illustrates this system and the relationships of the various individuals in its design and use. It is anticipated the project will be completed in 2 years.

Following the diagram in figure 2, the *knowledge engineer* transforms prior experiences of the *crime profiler* and the results of *violent crime research* into a *knowledge base*. Using artificial-intelligence computer software, the knowledge base is transformed into *decision rules* defining an *inference engine*. The NCAVC investigators input new cases and receive consultation via a *user interface*.

The expert-based computer system under development will allow the NCAVC to:

1) Eliminate useless investigative paths which historically have proven fruitless in profiling and identifying the offender;
2) Preserve and recall knowledge of similar cases, criminal personality profiles, and research studies;

The NCAVC Computer Center

3) Display the hierarchy of complex criminal network problems from the general to specific level;
4) Develop and use decision rules which accelerate computation time, as well as allow the investigator to understand the problem better;
5) Receive advice and consultation from the expert system on new and existing cases based upon prior knowledge captured by the system;
6) Preserve information in an active form as a knowledge base, rather than a mere passive listing of facts and figures;
7) Train novices to think as an experienced crime profiler would; and
8) Create and preserve in an active environment a system that is not subject to human failings, will respond to constant streams of data, and can generalize large bodies of knowledge.

AI applications show great potential for solving complicated crime profiling and assessment problems. Research is currently being conducted in two such uses which will be integrated into the NCAVC's AI computer project.

Social network analysis is a behavioral science-oriented approach that describes the interaction patterns between people.[4] This analysis can be used to identify possible courses of action an individual or group might take, as well as to surmise as to the hierarchical structure of an organization or group. Examples of the application of social network analyses include structures of organized crime syndicates, motorcycle gangs, and terrorist groups. NCAVC staff members are developing AI procedures to manipulate data and compute the probable hierarchies and interactions of complex organizations.

The behavioral analysis of threatening oral and written communications in extortions, bombings, and terrorist incidents is another viable application of artificial intelligence technology to real-world law enforcement problems.[5] The NCAVC is actively researching and experimenting with computer-assisted linguistic analysis techniques to evaluate the content of these communications in an effort to determine the authorship profile and assess the viability of the threat.

Summary

Presented in this article have been the systems approach to the management of violent crime data and the development of an artificial intelligence crime profiling computer system for the National Center for the Analysis of Violent Crime. The major benefit of this effort is an effective management information system which will track the activities of the program, assess the impact of law enforcement efforts against violent crime, and introduce automated computer-assisted profiling technology.

FBI

Footnotes

[1] D. J. Icove. et al., *Incendiary Fire Analysis and Investigation*, Open Fire Service Learning Program (Lexington, MA: Ginn Publishing Co., 1984); D. J. Icove, V. B. Wherry, and J. D: Schroeder, *Combating Arson-For-Profit: Advanced Techniques for Investigators* (Columbus, OH: Battelle Press, 1980).

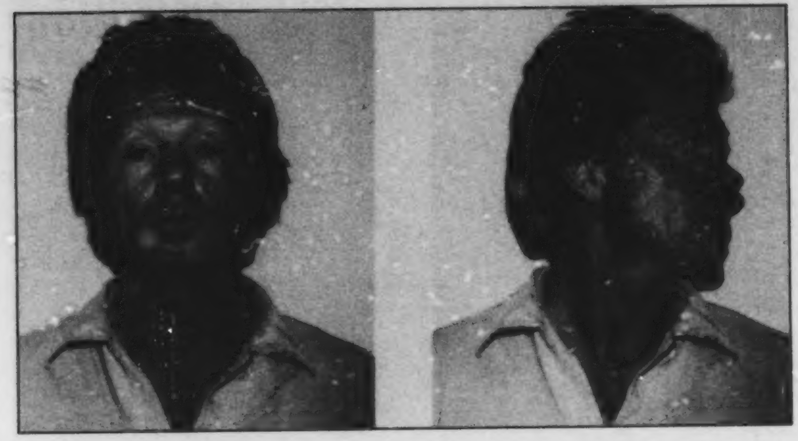
[2] J. L. Bryan and D. J. Icove, "Recent Advances in Computer-Assisted Arson Investigation," *Fire Journal*, National Fire Protection Association, vol. 71, No. 1, January 1977; D. J. Icove and H. L. Crisman, "Application of Pattern Recognition to Arson Investigation," *Fire Technology*, National Fire Protection Association, February 1975; "Arson: the Prevention Chain," National Clearinghouse for Criminal Justice Systems, U.S. Department of Justice, May 1980.

[3] B. G. Buchanan and E. H. Shortliffe, *Rule-Based Expert Systems* (Reading, MA: Addison-Wesley Publishing Co., Inc., 1984).

[4] R. H. Davis, "Social Network Analysis: An Aid in Conspiracy Investigations," *FBI Law Enforcement Bulletin*, vol. 50, No. 12, December 1981.

[5] M. S. Miron and J. E. Douglas, "Threat Analysis: The Psycholinguistic Approach," *FBI Law Enforcement Bulletin*, vol. 48, No. 9., September 1979; U. Perret, "Computer Assisted Forensic Linguistic System 'TEXTOR,' " IEEE International Conference: Security through Science and Technology, September 1980.

VICAP ALERT



Benjamin Herbert Boyle

RACE: Caucasian; DOB: 7/22/43, Hobart, OK; HEIGHT: 5′ 7″; WEIGHT: 170 lbs; HAIR: Red; EYES: Blue; COMPLEXION: Fair; BUILD: Muscular; SSAN: 443-42-4965; FBI NO.: 405 757 EA8; DRIVER'S LICENSE NO.: OK 443-42-4965 (Type: Chauffer).

Crime

Benjamin Herbert Boyle was arrested on October 17, 1985, and has since been in custody in Amarillo, TX, charged with the murder of a white female.

Background

Boyle was in the military from August 1960 to August 1963, and was discharged in Wheeler, IN. From 1969 to 1980, he indicated he lived in Colorado, where he owned an auto body shop. He moved to Las Vegas, NV, in February 1980, where he resided until November 1981, during which time he worked in an auto body shop. Another move in November 1981, took him to western Oklahoma. From that time until his arrest in October 1985, he was a truck driver for numerous trucking companies, making both local and cross-country hauls. (See map for routes of Boyle's travels.) During those years, he lived in Oklahoma, Texas, and Louisiana.

In addition to the murder charge in Amarillo, Boyle was convicted of attempted kidnaping in Colorado Springs, CO, and a warrant has been issued for his arrest in connection with a rape in Colorado.

Modi Operandi

Described below are three crimes connected with Boyle.

#1 On November 20, 1979, Boyle attempted to kidnap a 28-year-old white female as she was walking along a residential area in Colorado Springs, CO. He tried forcing her into his personal automobile, but the victim pulled a small knife from her pocket, stabbed Boyle 5 times, and fled. Boyle pleaded guilty to attempted kidnaping and was given a 5-year probated sentence.

VIOLENT CRIMINAL APPREHENSION PROGRAM

#2 On April 18, 1982, Boyle allegedly picked up by force a 17-year-old white female hitchhiker from a major highway in Colorado Springs, CO. He reportedly pulled his tractor trailer off onto a side road, forced the victim to commit oral sex, vaginally raped her, and then took her back to the highway and released her. A warrant has been issued for Boyle's arrest in this case.

#3 On October 14, 1985, Boyle allegedly picked up a 20-year-old white female hitchhiker north of Fort Worth, TX. The victim's body was found the next day 14 miles north of Amarillo, hidden in a clump of bushes. She had been beaten with a blunt instrument, bound with gray duct tape, and left nude. The victim had been sodomized and semen was found in her mouth. Cause of death was ligature strangulation. Fingerprints of Boyle were found on the sticky side of the duct tape.

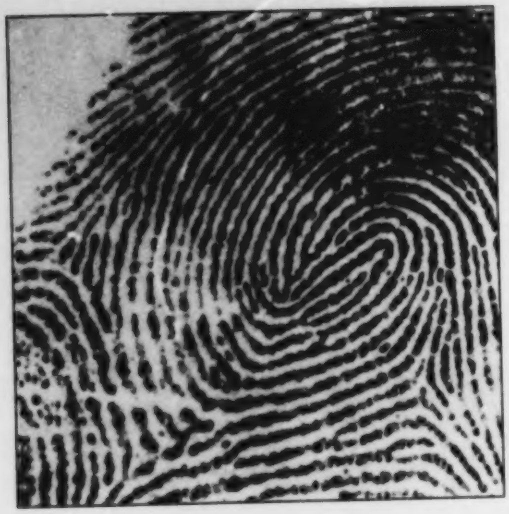
In this last incident, Boyle reportedly was driving his distinctive truck—a fire-engine red, 1981 Peterbilt, with a conventional cab and twin chrome stacks.

Alert to Chiefs and Sheriffs

This information should be brought to the attention of all homicide officers. If unsolved cases in your department resemble Boyle's MOs or fit the time frame and routes taken by Boyle (see map pictured above), contact either the National Center for the Analysis of Violent Crime, VICAP, FBI Academy, Quantico, VA 22135 (703-640-1127) or Sgt. Modeina Holmes or Sgt. Walt Yerger, Special Crimes Unit, Amarillo, TX (806-379-2230). When calling Amarillo, refer to file CAS #227,412.

Unusual Pattern

This pattern is classified as an accidental whorl and is given an outer tracing referenced to a meeting tracing. The impression has three well-defined deltas, and the accidental whorl is the only pattern which may possess more than two deltas.



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FBI

Law Enforcement Bulletin

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The Bulletin Notes

Officer George Stokesberry, Nampa, ID, Police Department, responded to a fire call on June 5, 1985, and rescued a couple from their burning apartment. The officer had to crawl through heavy smoke to save the sleeping wife. The Bulletin is pleased to join Officer Stokesberry's superiors in the Nampa Police Department in commending this lifesaving service.

Officer Stokesberry